United States Court of Appeals

for the Second Circuit

APPENDIX

ORIGINAL
WITH PROOF
OF SERVICE

75-1284

B
P/S

UNITED STATES COURT OF APPEALS

for the

SECOND CIRCUIT

UNITED STATES OF AMERICA,

Appellee,

-against-

JOSEPH BONACORSA,

Defendant-Appellant.

ON APPEAL FROM A JUDGMENT OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

APPENDIX

ROTHBLATT, ROTHBLATT, SEIJAS & PESKIN
Attorneys for Defendant-Appellant
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New York, N. Y. 10023

HON. DAVID G. TRAGER
United States Attorney, Eastern District of New York
Attorney for Appellee
225 Cadman Plaza East
Brooklyn, New York 11201

UNITED STATES COURT OF APPEALS
FILED
SEP 12 1975
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

(4956)

PAGINATION AS IN ORIGINAL COPY

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DOCKET ENTRIES

73cr904 & 905

D. C. Form No. 100
CRIMINAL DOCKET

73 CR 1069

JUDD, ~~PLATT~~, J.

TITLE OF CASE	ATTORNEYS
THE UNITED STATES	For U. S.: Meyerson
vs.	
JOSEPH BONACORSA CLOSED	FOR DEFT: ROTHBLATT, ROTHBLA
	SEIJAS & PESKIN
	232 West End Ave, N.Y., N.Y.
	787-7000
XXXXXXX	XXXXXXXXXXXXXXXXXXXXXX
	XXXXXXXXXXXXXXXXXXXXXX
	XXXXXXXXXXXXX
	XXXXXXXXXXXX

Did unlawfully influence a witness of the Grand Jury

ABSTRACT OF COSTS	AMOUNT		CASH RECEIVED AND DISBURSED					
			DATE	NAME	RECEIVED		DISBURSED	
Fine,			3/4/74	Notice of Appearance	5			
Clerk,			3/14/74	Paid to Clerk sec 74-CC-184			5	
Marshal,								
Attorney,								
Commissioner's Court,								
Witnesses,								

DATE	PROCEEDINGS
2-19-73	Before BARTELS, J.- Indictment filed and ordered sealed- Bench warrant ordered and issued
2/24/73	Notice of Appearance filed.
2-27-73	Memorandum to Judge Judd from Magistrate Catoggio filed re:arraignment of defts on bench warrants(inserted into 73cr1068
3/4/74	Before JUDD, J. Case called, defts and counsel present, defts arraigned and enters a plea of not guilty, case adjd to 3/11/74 for trial
3-5-74	Notice of motion for discovery and bill of particulars, etc. ret. 3-8-74
3-8-74	Before JUDD, J - case called - motion marked off(Discovery)
3-11-74	Before JUDD, J- case called & adjd to Mar. 13, 1974 (for trial)

(Filed)

DOCKET ENTRIES

73 CR1069

DATE	PROCEEDINGS	CLERK'S FEES PLAINTIFF	CLERK'S FEES DEFENDANT
3-14-74	Before JUDD, J - case called =deft & counsel Nicholas Castellano present - Di Berry hearing held and concluded - case adjd to 4-29-74 for trial.		
4-29-74	Before JUDD, J - case called - adjd to June 3, 1974 (for trial.		
10/15/74	Before PLATT,J.- Case called- Ready and holding		
11-14-74	Before PLATT, J - case called - deft & counsel Nicholas Castellano present - Jurors selected and sworn -Trial contd to 11-18-74.		
11-18-74	Before PLATT, J - case called - trial resumed - trial contd to Nov. 19, 1974.		
1/19/74	Before PLATT,J.- Case called- Deft and counsel present- Trial resumed- Deft's motion to dismiss counts 1,2 and 3- denied- Trial contd to 11/20/7		
11-20-74	Before PLATT, J - case called - deft Joseph Bonacorsa & counsel N. Castellano present - trial resumed - deft renews motion for mistrial- denied - court charges Jury - requests to charge - Marshals sworn - alternates discharged - Jury retires to deliberate 11:50 am - Deft renews motion for mistrial= denied - Indictment (73CR 1069) recvd at Court Ex.#4 - trial contd to 11-21-74/		
11-20-74	By PLATT, J - Order of sustenance filed - 14 persons Luncheon.		
1-21-74	Before Platt, J - Case called - trial resumed - Jury resumes deliberation - Jury returns with a verdict of guilty as to counts 1 and 3 and not guilty as to count 2 - sentence adjd without date (see entry in 74 CR-134 relating case) Trial concluded.		
1-24-75	Stenographers transcript filed dated Nov. 20, 21, 1974 (pgs 507 to 644)		
/31/75	Notice of motion to set aside verdict filed ret. 2/7/75 at 10:00 A.M.		
2-7-75	Before PLATT, J - case called - motion setting aside verdict argued - decision reserved - report marked as Govt Ex #1		
3/4/75	By PLATT,J.- Order dated 2/25/75 filed for substitution of attys. [illegible] J.		
5-6-75	By PLATT, J - Memorandum and order filed denying motions of deft for a new trial and an evidentiary hearing will be held on the aforesaid question on May 30, 1975 at 2:00 PM.		
/6/75	Before PLATT,J.- Case called- Deft and counsel present-Hearing ordered and begun- Stipulation as to agreed facts dictated on the record-Hearing concluded Decision reserved		
6/25/75	By PLATT,J.- Supplemental memorandum and Order filed denying above motion deft will appear for sentencing on 6/27/75 at 10:00 A.M.		
/1/75	Notice of motion for reargument of court's supplemental order denying motion for judgment of acquittal		

DOCKET ENTRIES

73 CR--1069
CRIMINAL DOCKET

DATE	PROCEEDINGS
7-3-75	Stenographers transcript filed dated June 6, 1975.
7-3-75	By PLATT, J - Amended Supplemental Order filed dated June 25, 1975 is hereby amended so as to delete the words "the following facts were stipulated"appearing after the first paragraph and substituting in place thereof the following: "At the outset of the hearing, the attys indicated that they were prepared to stipulate to the following facts and did so stipulate except as to the matter contained in the second full paragraph of page 2 hereof:" Copies forwarded to counsel Rothblatt,Rothblatt, Seijas & Peskin and AUSA Barlow.
7/11/75	Notice of appeal filed
7/11/75	Docket entries and duplicate of notice of appeal mailed to court of appeal
7/14/75	Before PLATT,J.- Case called- On motion of A.U.S.A. Barlow the indictment is dismissed
7/14/75	By PLATT,J.- Order of dismissal filed
7-31-75	Order received that the Index to Record be docketed on or before Aug. 4, 1975. (see entry of 7-14-75) in relating case 74CR-134)

DOCKET ENTRIES

D. C. APPEAL
CRIMINAL DOCKET

74 CR 134

PLATT, J.

TITLE OF CASE	ATTORNEYS
THE UNITED STATES	For U.S.: AUSA MEYERSON
vs.	CLOSED
JOSEPH BONACORSA	
	For Defendant:
Did make false statements to Grand Jury, etc.	

ABSTRACT OF COSTS	AMOUNT	CASH RECEIVED AND DISBURSED			
		DATE	NAME	RECEIVED	DISBURSED
Fine,	2,000.00	7/11/75	Notice of Appeal	5 -	
Clerk,		7/14/75	Paid to Treas.		5 -
Marshal,					
Attorney,					
Commissioner's Court,					
Witnesses,					

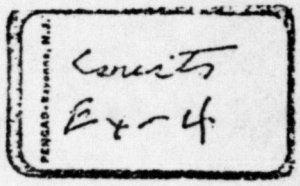
DATE	PROCEEDINGS
2-25-74	Before MISHLER, CH J. Superseding Indictment filed.
2-27-74	Before JUDD, J - case called - deft & counsel M.Pollina present - deft arraigned and enters a plea of not guilty - bail contd - motions by March 8, 1974 - case adjd to March 11, 1974 for trial.
3-11-74	Before Judd J - case called - adjd to March 13, 1974.
6-17-74	Govts Notice of Readiness for Trial filed
6/28/74	Before PLATT,J.- Case called- Ready and passed.
10/15/74	Before PLATT,J.- Case called- Rady and holding
11-21-74	3 Stenographers transcript filed (pgs 1 to 506a)
1-21-74	Before PLATT, J - case called - trial resumed - Jury resumes deliberation - Jury returns with a verdict of guilty as to counts 1 and 3 and not guilty as to count 2 - Jury polled discharged - Order of Sustenance signed - trial concluded -

DOCKET ENTRIES

74 CR 134

DATE	PROCEEDINGS	CLERK'S FEES PLAINTIFF	CLERK'S FEES DEFENDANT
	sentence adjd without date -		
1-21-74	By Platt, J - Order of Sustenance filed.		
-4-74	Memorandum filed in support of motion for mistrial.		
2-4-74	Defts Requests for Charge filed.		
2-4-74	Govts Requests to Charge filed.		
1-10-75	Before PLATT, J - case called - adjd to Feb. 7, 1975(sentence)		
7/3/75	Before PLATT, J - Case called- Deft and counsel present- Deft sentenced on counts 1 and 3 pursuant to T-18, U.S.C. Sec. 3651, for a period of 2 years the deft is to serve 4 months and execution of the remainder of sentence is suspended and the deft is placed on probation for 3 years ~~and fined~~ said sentence to run concurrently on each count-deft fined $2,000.00- Execution of sentence stayed pending appeal		
7/3/75	Judgment and Commitment and Order of Probation filed- certified copies to Marshal and Probation		
7/3/75	Govt's memorandum of law filed		
7/11/75	Notice of appeal filed		
7/11/75	Docket entries and duplicate of notice of appeal mailed to court of appeals		
7-29-75	Record on Appeal certified and mailed to the Court of Appeals.		
7-31-75	Order received that the Record on appeal be forwarded to the Court of Appeals on or before 8-4-75 (record forwarded on 7-29-75)		
8-1-75	Acknowledgment filed received from Court of Appeals for receipt of Index on Appeal.		

ORIGINAL INDICTMENT (73 CR 1069)



EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

JOSEPH BONACORSA

Defendant

FILED
U.S. DISTRICT COURT E.D.N.Y.
DEC 19 1973
TIME A.M.
P.M.

INDICTMENT
18 U.S.C. §1623

73CR1069

THE GRAND JURY CHARGES:

COUNT ONE

On or about the 14th day of September, 1973, in the Eastern District of New York, a competent tribunal, that is, a Grand Jury of the United States of America, duly impaneled and sworn in the United States District Court for the Eastern District of New York, was conducting an inquiry to determine among other things, whether, in connection with the case of United States v. John Doe, Criminal Case No. 7[illegible]1,774, there had been committed in the Eastern District of New York violations of 18 U.S.C. §224 (Sports Bribery) and other Federal criminal statutes, said inquiry being a case in which a law of the United States authorized an oath to be administered.

It was material to this Grand Jury inquiry to ascertain, among other things:

a. Whether or not there was any business relationship between the defendant and Forrest Gerry, Jr.

b. Whether or not Forrest Gerry Jr. was the real and actual owner of horses listed in other persons names.

c. Whether or not Forrest Gerry Jr. was the real and actual owner of horses listed in Joseph Bonacorsa's name.

ORIGINAL INDICTMENT (73 CR 1069)

On or about the 14th day of September, 1973, the defendant Joseph Bonacorsa, having duly taken an oath before the said Grand Jury that, as a witness before said Grand Jury, he would testify truly, did then and there, wilfully and contrary to such oath, state material matter which he did not believe to be true and knew to be false to wit:

Q. Are any horses which you now own or train or have driven really owned by Forrest Gerry?

A. No, sir.

. . . . . .

Q. Did you ever purchase race horses for Forrest Gerry under your name or your wife's name?

A. No.

Q. Or anyone else's name?

A. No.

Q. Do you know if Forrest Gerry ever purchased horses under anyone else's ownership?

A. No, I don't.

(Title 18, United States Code, Section 1623).

COUNT TWO

On or about the last week in February, 1973 in the Eastern District of New York, Joseph Bonacorsa did corruptly endeavor to influence, obstruct and impede the due administration of justice in the United States District Court for the Eastern District of New York, by corruptly endeavoring to influence, obstruct, and impede Steve Rubin, a witness, who knew material facts and was expected to testify to them and be called as a witness and was so called as a witness before the Special May 1972 Grand Jury inquiring in said District into possible violations of the sports bribery laws, 18, United States Code, Section 224, to give material false testimony before said body in relation to the aforesaid violation.

(Title 18, United States Code, Section 1503)

COUNT THREE

On or about the month of September, 1973 in the Eastern District of New York, Joseph Bonacorsa did corruptly endeavor to influence, obstruct, and impede the due administration of justice in the United States District Court for the Eastern District of New York, by corruptly endeavoring to influence, obstruct and impede Steve Rubin, a witness, who knew material facts and was expected to testify to them and be called as a witness and was so called as a witness before the Special May 1972 Grand Jury inquiring in said District into possible violations of the sports bribery law, 18 United States Code, Section 224, to give material false testimony before said body in relation to the aforesaid violation.

(Title 18, United States Code, Section 1503)

A TRUE BILL

FOREMAN

EDWARD J. BOYD, V
ACTING UNITED STATES ATTORNEY

SUPERSEDING INDICTMENT (74 CR 134)

Ex-7

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D. N.Y

FEB 25 1974

TIME A.M.....
P.M.....

----------x

UNITED STATES OF AMERICA

-vs-

JOSEPH BONACORSA,

Defendant

----------x

SUPERSEDING INDICTMENT

18 U.S.C. §1623

74CR 134

THE GRAND JURY CHARGES:

COUNT I

On or about the 14th day of September and the 19th day of December, 1973, within the Eastern District of New York, a competent tribunal, that is, a Grand Jury of the United States of America, duly impanelled and sworn in the United States District Court for the Eastern District of New York, was conducting an inquiry to determine among other things, whether, in connection with the case of United States -v- John Doe, Criminal case No. 731774, there had been committed in the Eastern District of New York violations of 18 U.S.C. §224 (Sports Bribery) and other Federal criminal statutes, said inquiry being a case in which a law of the United States authorized an oath to be administered.

It was material to this Grand Jury inquiry to ascertain, among other things:

a. Whether or not there was any business relationship between the defendant and Forrest Gerry, Jr.

b. Whether or not Forrest Gerry, Jr. was the real and actual owner of horses listed in other persons names.

c. Whether or not Forrest Gerry, Jr. was the real and actual owner of horses listed in Joseph Bonacorsa's name.

d. Whether or not Joseph Bonacorsa was the real and actual owner of horses listed in his or his family's name.

e. Whether or not Joseph Bonacorsa dealt directly with Steve Rubin and Richard Schweitzer in purchasing a horse named "Jolly Timmy."

SUPERSEDING INDICTMENT (74 CR 134)

On or about the 14th day of September and the 19th day of December, 1973, within the Eastern District of New York, the defendant JOSEPH BONACORSA, having duly taken an oath before the said Grand Jury that, as a witness before said Grand Jury, he would testify truly, did then and there, wilfully and contrary to such oath, state material matter which he did not believe to be true and knew to be false to wit:

-2-

SEPTEMBER 14, 1973 TESTIMONY

Q. Are any horses which you now own or train or have driven really owned by Forrest Gerry?

A. No, sir.

.....

Q. Did you ever purchase race horses for Forrest Gerry under your name or your wife's name?

A. No.

Q. Or anyone else's name.

A. No.

Q. Do you know if Forrest Gerry ever purchased horses under anyone else's ownership?

A. No, I don't.

DECEMBER 19, 1973 TESTIMONY

Q. Now, Monday you were here and there weren't enough Grand Jurors and because there weren't enough Grand Jurors we had a deposition taken, is that correct?

A. Yes.

Q. And we have the minutes which you have in your hand, is that correct?

A. Yes.

MR. MEYERSON: Let's mark this for identification as a Grand Jury Exhibit.

(Whereupon, the aforementioned transcript was marked Grand Jury Exhibit 2, as of this date, by the reporter.)

Q. Have you read this deposition?

A. Yes.

Q. Which is Grand Jury Exhibit 2?

A. Yes.

Q. Is everything you said in there the truth and accurate?

A. Yes, sir.

Q. And is it all accurate as to what you did say at that time?

A. I believe it is, Mr. Meyerson.

Q. And you stick to those statements today, is that correct?

A. Yes.

Q. And if you were asked the same questions today, you would answer in the same way?

A. Yes, Mr. Meyerson.

Q. You adopt those statements as yours for the purposes of this proceeding?

A. Yes, Mr. Meyerson.

Grand Jury Exhibit #2 states in pertinent part, as follows:

Q. What about the fifth horse?

A. I didn't want to hold any money. The fifth horse I bought outright and I believe I remember the name of the people was Ruben. Steve Ruben.

Q. And anybody else?

A. I think he had a partner but I dealt with Steve because he was a trainer and so on and so forth and I got a bill of sale from him for the amount that I purchased the horse for and also we paid the City sales tax to the tax people for the amount of the horse.

Q. You dealt with him directly?

A. Yes.

Q. How did you pay him, with a check or cash?

A. No cash.

Q. Do you remember approximately when this was?

A. It was in February sometime, Hal. I don't know the exact date right offhand.

Q. How many times did you deal with him, just that one time?

A. With who is this?

Q. Mr. Ruben.

A. Just the one time, Yes.

Q. And this is for the horse Joli Timmy? Is that correct?

A. Right.

. . . . .

Q. I would like to go over now your testimony concerning Forrest Gerry.

A. Okay.

. . . . .

Q. And did you ever have any business deals with him at all?

A. No. No.

Q. No business dealings with him?

A. No. Not that I can remember of any type. The only business dealing I ever had with Forrest Gerry was when I first met him, many years ago. It must have been fifteen years or better. A young boy come to the track was looking for a goat and I sold him a goat for $10.

. . . . .

Q. You never bought or sold horses from him?

A. No, I didn't.

Q. And he was never your agent in buying or selling any horses?

A. No.

(Title 18, United States Code, Section 1623)

COUNT II

On or about the last week in February, 1973 in the Eastern District of New York, JOSEPH BONACORSA did corruptly endeavor to influence, obstruct and impede the due administration of justice in the United States District Court for the Eastern District of New York, by corruptly endeavoring to influence, obstruct, and impede Steve Rubin, a witness, who knew material facts and was expected to testify to them and be called as a witness and was so called as a witness before the Special May 1972 Grand Jury inquiring in said District into possible violations of the sports bribery law, 18 United States Code, Section 224, to give material false testimony before said body in relation to the aforesaid violation.

(Title 18, United States Code, Section 1503)

COUNT III

On or about the month of September, 1973 within the Eastern District of New York, JOSEPH BONACORSA did corruptly endeavor to influence, obstruct and impede the due administration of justice in the United States District Court, for the Eastern District of New York, by corruptly endeavoring to influence, obstruct and impede Steve Rubin, a witness, who knew material facts and was expected to testify to them and be called as a witness and was so called as a witness before the Special May 1972 Grand Jury inquiring in said District into possible violations of the sports bribery law, 18 United States Code, Section 224, to give material false testimony before said body in relation to the aforesaid violation.

(Title 18, United States Code, Section 1503)

A TRUE BILL

FOREMAN

EDWARD J. BOYD 5th
UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - - - x

UNITED STATES OF AMERICA

-against-

JOHN DOE

Criminal Folder

#731,774

- - - - - - - - - - - - - - - - - - x

225 Cadman Plaza East
Brooklyn, New York

June 11, 1973

GRAND JURY MINUTES

Presented by:

HAROLD MEYERSON, ESQ.
Special Attorney

Reported by:

Elizabeth A. Ng

Witness:

JOSEPH BONACORSA

J O S E P H B O N A C O R S A, after being sworn, assumed his seat as a witness and testified as follows:

EXAMINATION BY
MR. MEYERSON:

Q Will you state your name for the record, please.

A Joseph Bonacorsa.

Q Mr. Bonacorsa, are you a driver of race horses?

A Yes.

Q Where do you race?

A Roosevelt Raceway, Yonkers Raceway.

Q Now, did you purchase some horses recently?

A A couple of months ago, yes.

Q Where did you get the money to purchase these horses?

A I borrowed it from a Mathew Lynch (phonetic) from South Bend, Indiana.

Q Are they your own horses in your own name?

A Yes.

Q You don't have any secret partners?

A No, sir. I don't.

Q On what terms did you borrow this money?

A I borrowed it for six-month period so the man could either take the horses for the money back. That gave me an opportunity to get back in the ball game to try to make some money because I had been in debt to Feedman and everybody at the racetrack.

Q Now, do you know a man by the name of Forrest Gerry?

A Yes. I do.

Q Can you tell me what connection you do know him?

A Well, strictly as a horseman, you know, he used to be at the track. I used to see him at the races whenever I went to the races.

Q Did you see him any other times outside of the racetrack?

A No.

Q You never saw him at any time outside of the racetrack, is that correct?

A Right.

Q Do you know a woman by the name of Connie Rodgers?

A Yes. I do.

Q Could you tell me in what connection you know

her?

A Well, she was always with this fellow you are talking about, Gerry.

Q Forrest Gerry?

A Right, at the races.

Q Where do you meet at the races? You mean in the Club bar or do you mean down at the track?

A In the grandstand.

Q And this is where you would always see them?

A Yes.

Q Did you ever see her at any other time outside of that?

A No.

Q Did you ever speak to her over the telephone?

A Yes.

Q When have you spoken to her recently?

A No. I haven't spoken to her recently. My boy sells some pants suits and he works for a company that makes women's wearing apparel and he had sold her a couple of pair of pants suits and she had called up on several occasions to find out about them.

Q Approximately when was this?

A I honestly can't say.

Q About a year ago?

A No. This was just recently, you know, like a month or so ago.

Q About a month ago?

A Right.

Q And so you called her concerning these pants suits?

A Well, my wife had spoken to her.

Q Your wife spoke to her?

A Yes.

Q Did you ever call her?

A No.

Q On the telephone?

A No.

Q On the telephone?

A No.

Q Do you know a man by the name of Anthony Annicchiarico?

A No.

Q Tarry?

A I do know Tarry, yes.

Q Can you tell us in what relationship you know him?

A Well, Tarry, I met quite some time ago. My brother

was a used car dealer and I met him there. I had been a used car dealer also and we naturally spoke together and whenever he was at the races we did speak together.

Q Do you know a man by the name of Mr. Anthony Coppola?

A No. By that name I don't. He might have -- I know, you know, a lot of people at the racetrack but I don't know them by their names. It might be a nickname of some kind and being a driver, always interrogate you about something.

Q Who was paying the weekly or monthly bills on the horses you have now?

A I pay it myself.

Q From the money you earn with the horses?

A Right.

Q Did you ever talk to any drivers concerning the arranging of Superfectas?

A No.

Q To fix races?

A No. I was never in one.

Q Did you ever talk to drivers about them fixing the races that they were in?

A No.

Q Did you ever speak to drivers concerning arranging bank accounts for them or putting money in

accounts for them?

A No.

Q Did you ever speak to Mr. Forrest Gerry on the phone?

A Yes.

Q About when was this?

A About the same time that Miss Rodgers had called. Evidently he was with her, you know, at the time.

Q I don't understand. You said your wife called her, is that correct?

A Yes. Well, I was home too. I was home also. It was at my home.

Q I'm asking if you ever spoke to either one of them.

A I said I did. Yes.

Q You spoke to both of them at that time?

A Yes.

Q And that was concerning your son's sale of something to Miss Rodgers?

A My wife had spoken to Connie about the pants suits and when I spoke to Junior, I asked him about some, if there were any good claims around because he's a very good intelligent person and I value his opinion and I thought he might know of something around but he's smart about

everything around the racetrack.

Q What do you mean claims, did you say?

A Horses whether they were good claims or bad claims. He's got a very strong opinion about horses.

Q Again, you never met with Forrest Gerry or Junior as you call him at any time outside of the grandstand?

A No.

MR. MEYERSON: Thank you. May I ask that this witness be excused but he might be called back upon further notice.

THE FOREMAN: You are still under subpoena of the Grand Jury. If we have any further questions of you, we will notify you through our attorney.

THE WITNESS: Any time.

THE FOREMAN: Thank you for coming.

THE WITNESS: You're welcome.

THE FOREMAN: You are excused.

(Whereupon, the witness was excused and withdrew.)

E/h 2

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------X

UNITED STATES OF AMERICA

-against- Criminal Folder

JOHN DOE #731,774

----------X

225 Cadman Plaza East
Brooklyn, New York

September 14, 1973

GRAND JURY MINUTES

Presented by:

HAROLD MEYERSON, ESQ.
Special Attorney
Department of Justice

Reported by:

Elizabeth A. Ng

Witness:

JOSEPH BONACORSA.

J O S E P H B O N A C O R S A, after being sworn, assumedhis seat as a witness and testified as follows:

EXAMINATION BY

MR. MEYERSON:

Q Would you state your name for the record, please.

A Joseph Bonacorsa.

Q Can we have your date of birth for the record?

A May 22, 1921.

Q I know you have been in here before but again could you please restate your relationship with Forrest Gerry especially since January of this year.

A Well, I knew him from seeing him at the races. I knew him before that quite a number of years ago when I first met him, I sold him a goat for $10 that he needed for one of his nervous horses and I hadn't seen him for quite a number of years but I did see him in the early part of this year in Yonkers and we always talk horses because he's a very smart man with buying and selling horses. He has a very strong opinion in my mind.

Q During the past several months, have you received any calls from Forrest Gerry with -- any members of your family received any calls from Forrest Gerry?

A Yes.

Q When was this?

A When? Exact dates I don't remember.

Q Approximately or how many times?

A Oh, half a dozen times anyway.

Q What were these calls about?

A Horses.

Q What about horses?

A Well, I don't remember exactly the conversation that I had with him but it was in reference to buying and selling horses.

Q That's about half a dozen times?

A Yes.

Q You realize, Mr. Bonacorsa, that the last time you were here, you told this Grand Jury that you only spoke to Forrest Gerry once.

A One time?

Q That's right and --

A On the telephone?

Q On the telephone and the only reason

you spoke to him was about some sort of thing between Connie and your wife?

A Well, those were -- that's what some of the calls were in relationship to. I didn't think you were referring to Connie Rogers because she's the one that had made the calls.

Q Yes, but I asked you last time how many times did you speak to Forrest Gerry and you told this Grand Jury that the only time you spoke to him was the time when your wife spoke to Connie.

A Right, but he had called me afterwards, Mr. Meyerson.

Q So you mean after the last time of the Grand Jury?

A Yes.

Q I want to clarify this. The only times you received calls from Forrest Gerry outside of the time that your wife spoke to Connie Rogers and Forrest Gerry was there -- was since your last Grand Jury appearance, is that correct?

A As far as I can recall.

Q So that you are telling the truth now and you were telling the truth then?

A Yes.

Q Did you contact any other drivers at Roosevelt Raceway regarding a Superfecta and did you ask him to finish in the last four and pay him $500 in advance?

A No, sir. I never did.

Q Did you pay this driver the proceeds or part of the proceeds of a winning Superfecta at Roosevelt Raceway and doing this for Forrest Gerry?

A No, sir. I never did.

Q Did you ever cash any winning Superfecta tickets at OTB?

A No, sir. I never did. I never had a winning Superfecta ticket at any time.

Q Did you or your wife ever receive several thousand dollars from Forrest Gerry or Connie Rogers for an Exacta race running in April at Roosevelt Raceway?

A No, sir.

Q Didyou ever receive anymoney from Mr. Gerry for the purpose or claiming of any horses?

A No, sir.

Q Are any horses which you now own or train or have driven really owned by Forrest Gerry?

A No, sir.

Q At Yonkers Raceway did you meet and sit with Forrest Gerry and others during the meet there?

A Yes, sir. On numerous occasions I always sat.

Q Did you ever discuss -- you did?

A I'm sorry.

Q You did sit with --

A Yes, I did.

Q Where was this?

A In the cafeteria where I sat every night and had a cup of tea and a piece of pastry.

Q Did you realize that in the last time you were in front of the Grand Jury you said that you did not?

A I don't believe I said that, sir. If I did, I mightn't have understood the question or maybe you didn't ask me the question that way.

Q How many times has Forrest Gerry visited your home?

A He's never been to my house.

Q Has Miss Rogers ever visited your home?

A Yes, she has.

Q How many times?

A As far as I could recall two or three times.

Q When was this?

A I really can't pinpoint the dates for you, Hal, but --

Q Since January?

A Yes. Yes.

Q Were you ever in Miss Rogers apartment?

A No. I never been there.

Q What were the purposes of these visits?

A Well, she was purchasing some pantsuits that my son is in the business of selling and she came over to pick them up.

Q She came to pick them up so that would be one visit. What was the purpose of the others?

A She was going away at one time and she needed a place to put her dogs so she -- my wife knew of a kennel where we send our dog whenever the dog got hurt or something and she kept her dogs there.

Q In don't understand. She came over to your house just to ask you which kennel to put it in?

A Yes.

Q She couldn't have called you?

A Maybe she called my wife and asked her to come over, you know, I really don't know.

Q Do you know if there was any other purpose to that visit?

A I don't believe there was any other purpose, Hal.

Q Do you know if there was any other purpose to any other visits she may have made?

A No, sir.

Q Were you ever in room 209 at the Raceway Motel?

A I was in one of the rooms. I don't recall what room it was but I was there one time with Forrest Gerry. He called me and asked me to come over. He wanted to talk to me about some horses that he had, would I be interested in buying them and we spoke about it and I left.

Q Was that his room?

A I really don't know.

Q Was anyone else there?

A No.

Q Also this was between January and April?

A Yes.

Q This year?

A Yes.

Q When you were asked in the Grand Jury last tim e also about any meetings with Forrest Gerry, you never mentioned this. Do you have any explanation for the Grand Jury?

A I never recalled it until you mentioned it to me now.

Q How many times did you say you sat with Forrest Gerry at the cafeteria at Yonkers Raceway?

A I really don't remember how many times I sat with him, Hal.

Q Can you give us an approximation that is from one time to 100 times, 1,000 times?

A No.

Q Surely an approximation must be --

A Half a dozen times, I guess, anyway.

Q Do you remember who else at with you or came by during those times?

A Well, Connie Rogers was there and some other people were there. I didn't -- some fellow by the name of Jim.

Q Jim?

A Jim, I think hisname was. I don't remember.

Q Any drivers?

A No.

Q Do you know a man by the name of Richard Perry?

A Richard Perry, no. I don't know him by that name.

Q Al Levine?

A I'm not trying to evade the question.

Q Do you know Al Levine?

A No, I don't. There's a lot of people I know at the race track, Hal, but I don't know their names. Their nicknames or I know them, I have seen them but I don't know their whole name.

Q Did you ever discuss Superfectas with Forrest?

A No. No.

Q Do you remember what was discussed at these?

A Just horses and his evaluation of some of the horses that were racing and whether they would be good claims or things of that sort.

Q Did you ever see him bet on Superfectas?

A No.

Q Did you ever see him give any money to anyone else to bet?

A No.

Q On Superfectas?

A No.

Q Did you ever purchase race horses for Forrest Gerry under your name or your wife's name?

A No.

Q Or anyone else's name?

A No.

Q Do you know if Forrest ever purchased horses under anyone else's ownership?

A No, I don't.

Q Did you purchase $43,000 worth of horses at Roosevelt meet in 1973 about March '73 and put them in you. wife's name?

A Yes.

Q I would like now . very explicit details of exactly where you got the money for this.

A Well, I got the money from a Matt Lynch from Indiana. I gave you his name and address and so on.

Q What is his name and address?

A (No response.)

Q Do you know what city in Indiana?

A 750 Indiana Avenue, South Bend, Indiana.

Q How did he give you this money?

A He came down and brought the cash down. We went to the National City Bank by Roosevelt Field and got a certified bank check which I needed to claim the horses with.

Q Was this a gift or a loan?

A No. It was a loan.

Q What was it secured by?

A Secured by my home and the option to take the horses back after a length of time of six months if they wanted the horses or the money. I have already returned two of the horses to Matt Lynch and the sum of those horses are --

Q Are there any papers that you know of which secure your home?

A I don't understand your question.

Q If your home is secured then there has to be some sort of recording of it so that creditors would know.

A A written agreement?

Q Yes.

A No. We never had. It's not unusual, Hal, for

horsemen to make agreements verbally on the race track. It's not uncommon or unusual.

Q I know that but I also know that if your home is secured then there must be some thing in some record in some clerk's office otherwise an insurance company do not know that your home is secured by some other agreement.

A They had the horses also as collateral for their money. They knew where the money was being spent. They are horsemen.

Q Is your home mortgaged?

A Yes. I have a mortgage on it.

Q Did you tell them that this, with this agreement also gave this person here a security on your home?

A Told who this?

Q Did you tell the mortgage company?

A No. The mortgage company never knew anything about it.

Q Did you ever take any loans or mortgages on your home or did you secure your home in any other way after this particular agreement?

A No. I have already given two of the horses back to him at the value of $26,750.

Q Did you ever approach Del Insko during the Roosevelt Raceway?

A No.

Q You never discussed Superfecta racing with Del Insko?

A No.

Q Did you ever accuse him of fixing a race?

A Accuse Del Insko?

Q That's right.

A Never.

Q Did you ever ask him to let you in on the inside information?

A Never.

Q Did you ever tell Insko that it was obvious that he was playing games with Supers, Superfecta races?

A Never.

Q Did he ever ask you to make the same claims to the stewards if you had any?

A Never.

Q You know John Barchi?

A Yes. I know him. John Barchi.

Q Can you tell us your relationship with him?

A Well, I just know him from -- I knew his father. He raced horses, I raced horses with his father and once the boy grew up and become a trainer and driver himself.

Q Did you ever give money to him for any reason whatsoever in the year 1973?

A No.

Q I have a program here and I'll ask you if you can recall based on the program if you can recall the Superfecta race of March 22nd.

A What race was that?

Q The Superfecta race of March 22nd.

A What race was the Superfecta?

Q Isn't it always the 8th race?

A I don't even remember. What about it?

Q Did you ever give Barchi any money for finishing 7th in that Superfecta Race?

A Absolutely not.

Q He was aboard the horse Keystone Gall Out (phonetic) is that correct, based on that program? You never gave him any money?

A Absolutely not.

Q Did you ever converse with him regarding that Superfecta race or any other Superfecta race?

A Absolutely not.

Q Any race whatsoever?

A (No response.)

Q I had a question. Any race whatsoever did you ever converse with him on any races?

A No.

Q You never gave him any money for any race for any reason?

A No.

Q Did you ever cash any winning OTB Superfecta tickets?

A No.

Q Did your wife ever cash any Superfecta racing tickets?

A To the best of my knowledge, no.

Q Did you or your wife ever bet on any Superfecta races?

A Yes. My wife bets Supers and I might have bet a couple of Supers. I never got a Super though.

Q Did you cash any OTB checks at any Chemical Bank?

A No.

Q Were you were with anyone who cashed any OTB checks?

A No.

MR. MEYERSON: I have no further questions for this witness.

THE FOREMAN: You are still under subpoena of the Grand Jury. If we have any further questions of you, we will notify you through our attorney for your next appearance.

You are excused at this time.

(Whereupon, the witness was excused and withdrew.)

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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

against

JOHN DOE

----------X

Criminal Folder #

Deposition of JOSEPH BONACORSA, taken by the plaintiff, held at the United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York on December 17, 1973 at 12:45 p.m., before Elizabeth A. Ng, a Notary Public of the State of New York.

A P P E A R A N C E S:

HAROLD MEYERSON, ESQ.
Special Attorney
Department of Justice

MICHAEL C. PELLINA, ESQ.
Attorney for Joseph Bonacorsa
100 East Old Country Road
Mineola, New York

Also Present:

NICHOLAS GIANTURCO
Special Agent
Federal Bureau of Investigation

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J O S E P H B O N A C O R S A, after being sworn by a Notary Public of the State of New York, was examined and testified as follows:

EXAMINATION BY

MR. MEYERSON:

Q Mr. Bonacorsa, you realize that you are under oath at this time?

A Yes, I do.

Q You also realize that this testimony will

be read to the Grand Jury?

A Yes, I do.

Q And you realize then that it's under the same conditions as the Grand Jury?

A Yes.

Q And you realize that you have the right to remain silent.

A (No response.)

Q You have the right to remain silent.

A Yes.

Q And you have the right to be represented by an attorney.

A Yes.

Q And in fact you are represented by an attorney?

A Yes.

Q And do you wish to answer questions?

A Yes.

Q Also you were here previously?

A Yes, I was.

Q And when the time when all the other drivers were subpoenaed, you also heard me state to everyone at that time that everyone had the right to remain silent?

A Yes.

Q And everyone had a right to an attorney and you had an attorney present, is that correct?

A Yes. That's true.

Q And who was your attorney at that time?

A I had Jessie Morse.

Q Who was representing Jessie Morse's office at that time?

A That was what was his name?

Q A woman, Mrs. Kaplan?

A Yes. That's right. Kaplan.

Q You knowingly decided to answer the Grand Jury's questions?

A Yes.

Q Now, the first thing that I would like to go over is: You received some money from Mr. Lentsch, is that correct?

A Yes.

Q Which you used to purchase certain horses?

A Yes, I did.

Q Can you tell us the circumstances of that transaction again?

A Well, the man I borrowed the money from was Mr. Martin Lentsch. He loaned me the money to get

started with back in the horse business again because I wasn't doing too well and with the stipulation that I would pay him back after a period of six months' time either the money or the horses that I have.

Now, Mr. Lentsch is a licensed owner in the State of Illinois so he and -- also his son is a trainer and a driver in the State of Illinois and they know the value of horses, the same as anybody else would, so they would know if the money was in jeopardy or not. So I proceeded to buy these horses.

Q How much money did you borrow from Mr. Lentsch?

A I borrowed, it was about $46,000.

Q How did you receive it?

A In cash.

Q Now, how did you receive the cash? When was this?

A Well, they were different dates, Hal, when I got the moeny from him.

Q Approximately the month.

A Anywheres from February the 16th to April the 4th or 5th or 6th, periods of in between there.

Q When you received the money, which Mr. Lentsch did you receive it from?

A His son. Mr. Martin Lentsch doesn't get around too well, so he had his son come out to Long Island to bring me the money.

Q Did he have it in cash with him at that time?

A Yes, he did.

Q Do you know how he received the cash? Did he have it in his home or did he have to cash a check or anything?

A No. He brought me cash.

Q What did you do with the cash?

A I went to the National City Bank on Old Country Road and to be able to claim a horse, you have to have a certified check from the bank, so I went to the bank and I got a certified check made out to -- payable to Roosevelt Raceway for the amount including a sales tax for that particular horse that evening.

Q This happened for several horses, wasn't it?

A Yes, for four of them.

Q Did the same thing take place for all four?

A Right.

Q What about the fifth horse?

A I didn't want to hold any money. The fifth horse I bought outright and I believe I remember the name of the people was Ruben. Steve Ruben.

Q And anybody else?

A I think he had a partner but I dealt with Steve because he was a trainer and so on and so forth and I got a bill of sale from him for the amount that I purchased the horse for and also we paid the City sales tax to the tax people for the amount on the horse.

Q You dealt with him directly?

A Yes.

Q How did you pay him, with a check or cash?

A No. Cash.

Q Do you remember approximately when this was?

A It was in February sometime, Hal. I don't know the exact date right offhand.

Q How many times did you deal with him, just that one time?

A With who is this?

Q Mr. Ruben.

A Just the one time, yes.

Q And this is for the horse Joli Timmy?

is that correct?

A Right.

Q I would like to go over now your testimony concerning Forrest Gerry.

A Okay.

Q You testified on June 11th and also September 14th.

A Yes.

Q On June 11th I asked you: Do you know a man by the name of Forrest Gerry and you said "Yes, I do."

I asked you "Can you tell me what connection you do know him?" Answer "Well, strictly as a horseman, you know. He used to be at the track. I used to see him at the races whenever I went to the races." Question: "Did you see him any other times outside of the race track?" Answer "No." Question: "You never saw him at any time outside of the race track, is that correct?" Answer: "Right."

Now, is that true?

A I'm pretty sure it is. I don't remember seeing him at any other time.

Q So you only met him at the race track?

A At the race track, right.

Q And did you ever have any business deals with him at all?

A No. No.

Q No business dealings with him?

A No. Not that I can remember of any type. The only business dealing I ever had with Forrest Gerry was when I first met him, many years ago. It must have been fifteen years or better. A young boy come to the track was looking for a goat and I sold him a goat for $10.

Q That was Forrest Gerry?

A That was Forrest Gerry. That was the first time I met him. Somebody sent him over to me, said I had a goat which I had for a horse that was mean and needed some company so I had a goat and I got rid of the horse and I had the goat, so I sold it to him.

Q There's also some questions about speaking to Mr. Gerry over the phone. Could you tell us when you have spoken over the phone?

A I don't exactly remember the dates on it, you know, because I do get phone calls and I'm not trying to conceal anything. It's just that my memory is bad on the situation.

Q Well, I would be more concerned with the

substance of the conversation rather than the exact date.

A Well, any conversation s I had with Mr. Gerry was in reference to horses. The caliber of horse, the ability of the horse, would he be a good claim, would he be worth buying, how did he race, is he sound, according to his knowledge. He seemed to know everything about every horse. You could see. Interrogate him about any particular horse and he would be able to tell you a story on this horse.

Q I think I understand.

A Now, how he compiled his information, I'll never know.

Q Let me see if this is an accurate summary:

You did have phone conversations with him at various times and the nature of these conversations would be in asking his opinion?

A Right.

Q About a particular horse?

A Right.

Q In other words -- but you did not have any business dealings with him?

A Absolutely none at all.

Q You never bought or sold horses from him?

A No, I didn't.

Q And he was never your agent in buying or selling any horses?

A No.

Q I think that clarifies things a bit.

In other words, if you ever testified that you only spoke to Mr. Gerry once at a time when Connie Rogers was on the phone and there was some conversation about some dresses she was to pick up?

A Right.

Q That would not be true that you did speak to him more than that, is that correct?

A I think that at the time that you have asked me the question, Harold, did he call you, I can only recall one incident that he actually called me. The other times when I spoke to him, he might have been right along side of Miss Rogers at the time and he, you know, asked to speak to me or I asked to speak to him, whatever the case may have been, you see. That's the only reason I made that statement as to his actual calling me up and that was it, but on the other occasions that I did speak to him, he had to be present with Miss Rogers if she had called my house or visa versa or if my wife had called her and told her her pantsuits had come from my boy Joey.

Q So, in other words, the phone conversations you had regarding -- with Forrest Gerry regarding his opinion on particular horses would be the times when Miss Rogers was also there?

A She had to be present at the time, as far as I can recall.

Q Now, outside of that, the only time you ever met him was at the race track?

A Yes.

Q Could you please explain the circumstances surrounding receiving all four checks?

A I didn't receive all four checks.

Q Your depositing of the checks.

A I didn't deposit any checks. I went to the bank with the cash.

Q Right.

A I got the cash with the bank to go to the bank with this fellow here, the tall teller to get a transfer into a certified check. I don't remember his name but he was a tall guy.

Q Who was with you at the time?

A Well, Matt was with me and that was it.

Q This is --

A The other two times I was at the track working.

A I had work to do. I was training horses and I asked Matt if he would go and take care of it for me.

Q This is the man waiting outside?

A No, the son.

Q Yes.

A So he did me a favor, ran over because I was running out of time and I wanted to get a certified check so I could get the horse claimed. You must have a certified check made out. This check was made out to Roosevelt Raceway each time.

Q Do you still have these five horses now?

A No.

Q What happened to them?

A I returned them in payment for the monies that I borrowed from Mr. Lentsch.

Q In other words, they are all owned by Mr. Lentsch?

A Except one horse.

Q And which was that?

A That was a horse named Timber that I claimed and the people claimed him back so I still have the money the $10,000 that Mr. Lentsch said that I could hold and claim another horse so that I could keep going. With this whole turmoil, I have been getting knocked out

of the box entirely and really in trouble.

Q The horse you are now talking about Timber is different than Joli Timmy?

A They are two entirely different horses.

Q Mr. Bonacorsa, do you have any other statement you wish to make?

A Yes. That I did see him on one occasion at the Roosevelt Motel, I think it was. He had called me in reference to a horse to claim that. He thought was a good claim and I didn't do anything about it because I didn't have any money.

Q Which motel was this?

A Roosevelt. I think it was the Raceway Motel. The Raceway, right, by the track.

Q Was anyone else there?

A No, there wasn't anybody there.

Q So you met him completely alone?

A Yes. I remember that there was one time that I did see him.

Q Did Mr. Gerry come with anyone?

A No. He was all alone. I didn't see anybody with him.

Q Was Mr. Seymour Rothstein there?

A I don't know the man. I don't know him. I don't

know any of the, you know.

MR. MEYERSON: I have no further questions.

(Whereupon, at 1:05 p.m., the deposition ended.)

Sworn to before me this

day of 197

CERTIFICATE

STATE OF NEW YORK]
COUNTY OF KINGS]

I, ELIZABETH A. NG , a Notary Public within and for the State of New York, do hereby certify:

That the witness[s] whose examination[s] are hereinbefore set forth were duly sworn and that such examination[s] are true records of the testimonies given by such witness[s].

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of December , 1973.

Elizabeth A. Ng

ELIZABETH A. NG

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-against- Criminal Folder #

JOHN DOE

----------X

225 Cadman Plaza East
Brooklyn, New York

December 19, 1973

GRAND JURY MINUTES

Presented by:

HAROLD MEYERSON, ESQ.
Special Attorney
Department of Justice

Reported by:

Elizabeth A. Ng

Witness:

JOSEPH BONACORSA

J O S E P H B O N A C O R S A, after being sworn, assumed his seat as a witness and testified as follows:

EXAMINATION BY

MR. MEYERSON:

Q Would you state your name for the record, please.

A Joseph Bonacorsa.

Q First let me tell you that you know you have a right to remain silent and a right to an attorney?

A Yes.

Q Do you not?

A Yes, I do, Mr. Meyerson.

Q You also remember when I informed you of this before on Monday and also back when you testified with all the other drivers in the room, with the other drivers?

A Yes, I do.

Q And you are willing to testify now, is that correct?

A Yes.

Q Now, Monday you were here and there weren't enough Grand Jurors and because there weren't

enough Grand Jurors we had a deposition taken, is that correct?

A Yes.

Q And we have the minutes which you have in your hand, is that correct?

A Yes.

MR. MEYERSON: Let's mark this for identification as a Grand Jury Exhibit.

(Whereupon, the aforementioned transcript was marked Grand Jury Exhibit 2, as of this date, by the reporter.)

Q Have you read this deposition?

A Yes.

Q Which is Grand Jury Exhibit 2?

A Yes.

Q Is everything you said in there the truth and accurate?

A Yes, sir.

Q And is it all accurate as to what you did say at that time?

A I believe it is, Mr. Meyerson.

Q And you stick to those statements today, is that correct?

A Yes.

Q And if you were asked the same questions today, you would answer in the same way?

A Yes, Mr. Meyerson.

Q You adopt those statements as yours for the purposes of this proceeding?

A Yes, Mr. Meyerson.

MR. MEYERSON: Thank you very much.

THE FOREMAN: You are excused.

(Whereupon, the witness was excused and withdrew.)

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Hopefully, maybe some requests will be able to be prepared today, and if they are, I'll submit them to you tomorrow morning; if they aren't, then I will suffer the consequences.

THE COURT: And you want all his witnesses excluded?

MR. MEYERSON: Yes.

THE COURT: You have no objection?

MR. CASTELLANO: None whatsoever.

Bring the Jury in.

(Jury present.)

THE COURT: Good morning, ladies and gentlemen, sorry to keep you waiting. We are ready to proceed now.

MR. CASTELLANO: Defendant calls Martin J. Lentsch, Sr.

M A R T I N J O S E P H L E N T S C H, called as a witness, having been first duly sworn by the Clerk of the Court, testified as follows:

DIRECT EXAMINATION

BY MR. CASTELLANO:

Q Mr. Lentsch, what is your business or occupation?

A Baker, Bakery and Bakery owner.

Q How long have you been in that business?

A I was born in the business. Physically since 1939.

Q Where do you reside and where is your place of business?

A 750 West Indiana, South Bend, Indiana.

Q Incidentally, Mr. Lentsch, have you ever been in a Courtroom before? Have you ever testified previously?

A No.

Q Do you know the defendant Joseph Bonacorso?

A Yes.

Q For about how long do you know him?

A Four years.

Q During the course of the four years, have you had occasion to speak to him and be with him from time to time?

A Yes.

Q Did there come a time, Mr. Lentsch, when you and the defendant made some -- I will withdraw that.

Have you ever been involved, Mr. Lentsch, in the harness racing business?

A Yes.

Q Have you owned horses?

A I've owned horses since 1968.

Q During the course of that time, have you bought

and sold horses?

A Three or four, yes.

Q What does your family consist of, Mr. Lentsch?

A Three sons and a wife.

Q Are there any of these sons that are also interested in the harness racing business?

A Two.

Q Two of them?

A Yes.

Q Are you licensed by anyone referenced to your being in the harness business?

A As an owner in Illinois.

Q And the two sons that you speak about, are they licensed?

A Yes.

Q Is either of those sons here in New York, in Brooklyn, with you today?

A Yes.

Q Who is that, sir?

A Matthew John.

Q Matthew John?

A Yes.

Q That's your son?

A That's my son.

Q Is he licensed?

A Yes.

Q As what?

A As a driver. Provisional driver and trainer and groom, all three.

Q How old is he?

A Oh, 28.

Q Now, did there come a time, Mr. Lentsch, when you and Mr. Bonacorso entered into any arrangement or understanding reference to harness horses?

A Yes.

Q Will you tell us when about that was?

A Oh, about 1968, in Chicago.

Q And did there come a time -- this is about when you first knew him?

A The very first time, yes.

Q Right.

Now, I'm asking you did there come a time when you discussed the investment of money in harness horses with Joseph Bonacorso?

A My son was in Panama in the service, I told him he was a harness -- interested in harness racing and he was a groom for Harry . Burwright in Chicago, plus he owned a horse or two on his own as a boy when he was 15, he bought one or two, and Harry Burwright raced them for him,

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and I wanted my son to get more education on horses and Joe told me he was from New York. And he says when my boy comes out of the army we ought to get together, but he would need a little money and we let it go at that.

And I've seen him two or three nights there in that same week. It was in July '68.

Q Did there come a time, Mr. Lentsch, when you did make an agreement with Joseph Bonacorso referenced to the purchase of horses?

A Not till my son came home.

Q But did there come such a time?

A Yes.

Q Did your son come home?

A Yes.

Q And then did there come a time when you discussed with Joe Bonacorso and agreed with him something referenced to the purchase of horses?

A Yes.

Q Whose money was involved, Mr. Lentsch?

A My money.

Q And how much were you going to invest?

A Roughly, $50,000.

Q And what was going to be done with that $50,000?

A I was going to loan Joe Bonacorso the money

to buy horses and then if I liked -- or my son liked them, we could buy them off of him, but in return he would educate my son further in the harness game, education in the race game.

I thought the best place would be up here in New York. However, my boy already was out of the army and was-- had one or two horses in Chicago.

(continued next page.)

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DIRECT EXAMINATION

MR. CASTELLANO: (Cont'd.)

Q As a result of this arrangement, did you son come here to New York and stay with Joe Bonacorso?

A Yes.

Q And during the course of this arrangement were there any horses purchased by Joe Bonacorso with your money?

A Yes.

MR. MEYERSON: Objection, your Honor, unless he was there and he knows of his own personal knowledge what Joe Bonacorso did. What Joe Bonacorso told him would be hearsay.

THE COURT: Sustained. Unless you know of your own knowledge that horses were purchased, not by what Mr. Bonacorso or anybody else told you. Do you know this of your own knowledge, as distinguished from what somebody else told you, do you know this to be a fact?

THE WITNESS: I don't get you, Judge.

THE COURT: Do you know of your own personal knowledge whether any horses were bought with your money?

THE WITNESS: My son bought -- gave Joe --

THE COURT: Strike it out. Not what your son

told you. Do you know of your own knowledge what was done with any money that you loaned? First hand knowledge.

THE WITNESS: Through my son.

THE COURT: That doesn't count.

THE WITNESS: My son was --

THE COURT: Not what you son told you. You are not allowed to tell us what your son told you, do you know that?

THE WITNESS: Yes.

THE COURT: So strike it out and disregard it, ladies and gentlemen.

BY MR. CASTELLANO:

Q Mr. Lentsch, did there come a time when you had occasion to prepare an affidavit referenced to the money that you invested and the horses that were purchased by that money?

MR. MEYERSON: Objection, your Honor.

THE COURT: He can answer yes or no. Did there come a time when you prepared an affidavit?

THE WITNESS: Yes.

Q And did there come a time when you were called by Joseph Bonacorso and came from your home in Indianapolis to this very building and spoke to this very gentleman along with FBI Agents (indicating Mr. Meyerson)?

A Yes.

Q Did they ask you all the facts and circumstances surrounding this investment of money and the purchase of those horses?

A Yes.

Q And did they make a recording -- when you were questioned about these horses and what not, was there a person in the room just like this gentleman that sits in front of the Judge with a machine taking down everything that you were asked and everything that you were answering?

A A lady. A person.

Q A lady?

A A lady, yes.

Q Now, Mr. Lentsch, when a horse is purchased, are there public records referenced to that purchase?

A Yes.

Q Does the track in every instance where a horse is owned by someone else and purchased by another party keep a record of the transaction?

A Yes.

Q Does that situation prevail whether the horse be paid for in cash or by check?

A In Chicago by cash, in New York by certified check or cash.

Q In Chicago is there a rule referenced to how a horse must be purchased, referenced to whether it be check or cash?

A Cash.

Q It must be cash?

A It must be cash.

Q In New York do you know whether you can pay by cash and/or any other means at the race track?

A Yes, I guess certified check or cash.

Q Of the five horses -- well, you don't know of your personal knowledge.

What did you specifically do physically referenced to the arrangements that you had made with Joe Bonacorso and money; what did you do?

A I don't get that now.

Q Well, you've testified that your son came to New York and stayed with Joe Bonacorso?

A Yes.

Q And the purpose of his staying was --

A Was to learn the harness horse racing business.

Q When he left your place in Indianapolis, did he bring anything with him? Outside of personal effects.

A He brought $30,000.

Q And --

A We come from South Bend, Mr. Castellano, not Indianapolis.

Q Excuse me. He brought with him $30,000, is that right?

A Yes.

Q And for how long did he stay with Joe Bonacorso?

MR. MEYERSON: Objection, your Honor, unless he was there or --

THE COURT: Do you know of your own knowledge, not by virtue of what Mr. Bonacorso -- what your son told you --

MR. CASTELLANO: May I withdraw the question, Judge, to save time?

THE COURT: Yes.

Q Did your son leave South Bend, Indianapolis with the $30,000?

A Yes.

Q How long was it before he came home?

A 14 days.

Q And then did he stay home for any length of time or did he leave again?

A He came right back to New York for about six, eight weeks there, from, oh, December 20th, 25th, right after Christmas until, oh, well 1st of February. So whether

he came back pp he came back on week-ends, the middle of the week --

Q He came back to South Bend?

THE COURT: What year are we talking about?

THE WITNESS: '73, I would say.

THE COURT: So we are talking about Christmas of '73?

THE WITNESS: Wait a while now. Last December 24th was what? It was '72.

THE COURT: Christmas of '72?

THE WITNESS: Yes, I would say yes.

THE COURT: Then he came back in February of '73?

THE WITNESS: Yes.

THE COURT: All right.

(Continued on next page.)

DIRECT EXAMINATION

BY MR. CASTELLANO: (Cont.)

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Q Did he stay for any appreciable length of time at your home?

A Just overnight, because he was commuting between Chicago, South Bend and New York.

Q And then he went back to New York?

A Yes.

Q This was over a period of how many months that he would come back home and leave again?

A Four.

Q Four months?

A Yes. Pretty solid in January and the first half of February, and casually the others, he would come back when they bought a horse or something.

Q With regard to the agreement that you had with Bonacorso, how much was it in its entirety that you had agreed to invest?

A Roughly, $50,000.

Q And did there come a time -- you tell me that you gave your son $30,000?

A Yes.

Q Did there come a time that anything else happened referenced to money?

A Well, they were buying horses.

Q Right.

THE COURT: Strike that out. Disregard it.

Q You don't know, you weren't personally there?

A No.

Q All you know is what you were told, correct?

A Yes.

Q Fine.

With regard to money, you sent him with $30,000?

A Yes.

Q Did there come a time that anything else happened with money?

THE COURT: Did you sent him with money again at a later date?

THE WITNESS: Yes.

THE COURT: When did that take place?

THE WITNESS: Oh, about March 25th -- after March 25th.

THE COURT: How much did you send with him?

THE WITNESS: $20,000.

Q Was this cash money that you sent him with?

A Cash.

Q Did there come a time when horses were sent to you after six months of their being in the possession of Joe

Bonacorso?

A Yes.

Q Do you remember how many horses were sent back to you?

A Oh, four.

Q And did you sell any of those horses?

A Well, they were claimed. Some were claimed and some we have for brood mare.

MR. MEYERSON: Objection, your Honor, unless we have a period of time.

THE COURT: When did you receive these horses?

THE WITNESS: My son would know better. I'm a baker.

THE COURT: You don't know when the horses came?

THE WITNESS: Can I look?

THE COURT: What are you looking at?

THE WITNESS: When the horses came. I'm a baker. They came --

THE COURT: You don't know?

THE WITNESS: Let me think. Oh, I would say February, after February -- they came in February, and they sired them at Hawthorne --

THE COURT: February of this year?

THE WITNESS: February of '73, or '72. '73.

THE COURT: When in February?

THE WITNESS: Right after February 22nd. We sired them at Hawthorne.

THE COURT: All four arrived at once?

THE WITNESS: No, two. My son knows a lot better. I'm in South Bend, Indiana. I bake bread.

THE COURT: You don't really know?

THE WITNESS: I should say I don't know.

THE COURT: Strike it out, ladies and gentlement. He doesn't know.

BY MR. CASTELLANO:

Q Mr. Lentsch, as a result of your investment of $50,000, as a total result, how did you make out with your investment?

A Average. We have a real good brood mare and we got what we paid for the horses and a little profit on some. We are good and even, plus a terrific brook mare. We can put her on the market and get money today for her.

Q Is the brocd mare one of the horses that was purchased by Joe Bonacorso?

A Yes.

Q And later sent to you?

A Yes.

MR. MEYERSON: Objection, your Honor.

THE COURT: Strike it out.

BY MR. CASTELLANO:

Q Is the brood mare a horse that you received from Joseph Bonacorso?

A Yes.

MR. MEYERSON: Objection, your Honor.

THE COURT: You know that of your own personal knowledge, or you are just a baker?

MR. CASTELLANO: May I withdraw the question?

THE WITNESS: That's what I know.

THE COURT: You know that?

THE WITNESS: The horse, yes, Judge.

THE COURT: Do you know where he came from?

THE WITNESS: I guess they claimed him.

THE COURT: Do you know where he came from? Do you know who --

Q He doesn't mean originally, he means where it came to you from.

THE COURT: Do you know who was the prior owner?

THE WITNESS: No.

THE COURT: Strike out and disregard it.

Q Did a horse by the name of Local Lie come to you?

A Yes. Came to my son.

Q Did you see Local Lie when she arrived?

A Yes. I seen her in the barn.

MR. MEYERSON: Objection, your Honor. There is no connection. It's irrelevant. The time period may still be irrelevant.

THE COURT: I will take it subject to any connection, otherwise if it's not connected, we will disregard it, ladies and gentlemen.

Q Do you still own Local Lie?

A Yes.

MR. MEYERSON: Objection, your Honor. Irrelevant.

THE COURT: Same ruling.

Q On Local Lie, as on every other horse, there is eligibility papers?

A Right.

Q Have you ever seen the eligibility papers of Local Lie?

MR. MEYERSON: Objection, your Honor.

THE COURT: I will let him testify. It's all taken subject to connection. If he doesn't connect it I'll strike it out.

THE WITNESS: My son sees it. I have nothing to

do with it. I might have seen it. I might have seen the eligibility -- the owner's certificate, when they come through the mail I might have seen them.

MR. CASTELLANO: Thank you. I have no further questions.

Just this, excuse me.

Q You say you did come and speak to Mr. Meyerson and FBI agents on an occasion where Bonacorso called you and asked you to come in?

A Yes.

Q At that time Joe Bonacorse hadn't been indicted, isn't that right?

A Not that I know of.

Q Since that time Joe Bonacorso was indicted, isn't that right?

A Right.

Q And since that time Joe Bonacorso's license to train, drive and everything else has been suspended because of the indictment?

MR. MEYERSON: Objection, your Honor.

THE COURT: Sustained.

Q At any rate, Mr. Lentsch, did you cooperate a hundred percent with the Government?

A Yes.

Q Did you answer every question they asked you?

A Yes.

Q Did you submit everything that they wanted you to submit?

A Everything.

Q Did you tell them everything that you knew?

A I told him all my personal business.

MR. CASTELLANO: Thank you.

CROSS-EXAMINATION

BY MR. MEYERSON:

Q Mr. Lentsch, when you made an arrangement for this $50,000, were you buying the horses for yourself?

A No, for Joe Bonacorso.

Q You were giving him the money then?

A He was buying them for himself.

Q He was buying for himself?

A Yes.

Q And you were loaning him the money?

A Yes. With the intentions that if he couldn't pay me back in six or eight months I would take -- could take the horses, and he in turn would train my son in the harness business.

Q I see.

Was anything said about his house as collateral?

A Yes.

He would give it to me. I knew he was pretty good. He's Catholic and I'm Catholic.

Q Would you wait for my questions, please.

A Okay.

Q Did you ever file a lien on the house?

A No.

Q Did you notify the mortgage company?

A No.

Q Did you do anything with reference to the house?

A No.

Q These horses, was there any paper or anything noting your agreement that the horses would be yours?

A No.

Q Anything in writing whatsoever?

A No.

Q Now, how long have you been in the bakery business?

A I was born in the bakery business. I went to Notre Dame. I finished in '39 and was in the bakery business from '39 until today. I still operate it. They need me right now.

Q And --

A It's a little bakery in the old community where

we have all kinds of people. We are still up there, we live upstairs. We are poor folk. We are right there.

Q Can you tell us, from about 1970 through 1973, about how much money the bakery made each year?

A Oh, the bakery --

Q Net.

A Net? My income or the bakery?

Q Your income.

A My income is roughly $20,000 with my stocks and bonds.

Q $20,000 a year?

A Yes.

Q With stocks and bonds?

A With stocks -- I make about 15 in the bakery. Lately, just seven or eight. The last three years it really dropped..

Q It really dropped the last three years?

A Two years -- one year. I made 9,000 last year, I guess, in the bakery.

Q In 1970 about how much did you earn?

A It was $13,000 in the bakery, 14.

Q 13,000 in the bakery?

A That's personal, right? Okay.

Q In 1971?

A Yes.

Q About the same?

A About the same, yes.

Q About 13,000.

In 1972?

A Ten, twelve.

Q And in 1973?

A Ten or twelve.

Q So by 1973 the business had slackened off a little?

A A little bit. We have -- we were one time a Slavish, Hungarian neighborhood and --

Q Wait for my questions, please.

THE COURT: Answer the questions and don't make speeches.

Q Is the bakery incorporated as a corporation?

A No, we are a partnership, my brother and I.

Q Does the -- do you have banks to deposit your money in?

A Yes, we have banks. In '31 we had banks, too.

Q And do you have an accountant to pay the payroll?

A Yes.

Q You have personal banks, do you not, and

checking accounts?

A Yes.

We had banks in '31 and my folks lost $40,000. Hard earned money.

Q Will you please wait for my question, sir.

A Okay. Go ahead.

Q Sir, did you take -- how much was this, $50,000; is that correct?

A Yes.

Q Did you take this $50,000 from one of your banking accounts?

A No.

Q Did you sell securities?

A No.

Q As a matter of fact, you just -- according to your previous testimony, you merely took it from around the house; is that correct?

A From around the house.

Q $50,000?

A Yes.

THE COURT: You had $50,000 in cash lying around the house?

THE WITNESS: Yes. We still have some.

THE COURT: Where do you keep it?

THE WITNESS: Basement, in a barrel, iron barrel down in the basement. Some upstairs on the porch.

MR. CASTELLANO: Judge, what was the address of the house?

THE WITNESS: My folks lost a lot of money in 1930.

BY MR. MEYERSON:

Q Will you please wait.

A I'm just telling him. I'm getting my point across, boy.

THE COURT: You have savings banks?

THE WITNESS: Yes.

THE COURT: In South Bend?

THE WINTESS: Yes.

THE COURT: Do they pay interest on the money?

THE WITNESS: Oh, five and a quarter.

THE COURT: All right.

THE WITNESS: They can fold up. I keep some money home. They fold fast when they fold.

THE COURT: Have you ever heard of Federal Deposit Insurance?

THE WITNESS: Yes. I don't know how solid that is, they can change, too. The dollar is going

down the drain. I don't mean to be wise, but silver is best and gold.

BY MR. MEYERSON:

Q Sir, do you happen to know that Joseph Bonacorso is not exactly a top driver?

A I didn't know that, no.

MR. CASTELLANO: I object to the form of that question. I ask that that question be stricken, Judge. It's not a proper question.

THE CORUT: Cross-examination. I'll allow it.

MR. CASTELLANO: Exception, please.

Q Did you know that Mr. Bonacorso was not a successful driver or trainer, and has never been such?

MR. CASTELLANO: I object to the form of that question. Mr. Meyerson is testifying by his questions.

THE COURT: Overruled.

MR. CASTELLANO: I merely want the record to point out what I say.

May I be permitted to do it?

THE COURT: Yes.

MR. CASTELLANO: I say that Mr. Meyerson is testifying by his questions and I don't have an opportunity to cross-examine Mr. Meyerson. It's only this witness that I can examine.

THE COURT: The jury has been instructed and I will reinstruct the jury that questions of counsel are not evidence. It is the testimony that is given from the witness stand that is evidence.

Proceed, Mr. Meyerson.

BY MR. MEYERSON:

Q Do you know that?

A What's that?

Q Do you know that Mr. Bonacorso was never a successful owner, driver, or trainer ?

A No, I didn't know that.

He has a nice family and a house.

Q I'm sure.

Did you make inquiries into the status of Mr. Bonacorso's ability as a driver and trainer?

A Yes. I checked with Vic Zeinfield, Vic Galenga, they are prosperous harness owners in Chicago and they knew of him.

Q In Chicago?

A Yes.

Q But not in New York?

A I know Len Morris from White Plains, that's all I know.

Q You didn't take any -- you didn't do anything

about his house even though it was offered?

A Right.

Q And you have nothing in writing?

A Nothing in writing.

Q And the $50,000 came from the basement of your house?

A Yes. Stored there.

Q And this is at a time when you were making $13,000 a year?

A About 20, with my stocks and bonds.

Q And this is at a time when your business had started to drop to ten -- to $12,000 a year?

A Well, yes.

MR. MEYERSON: I have no further questions.

REDIRECT EXAMINATION

BY MR. CASTELLANO:

Q Mr. Lentsch, all these questions that Mr. Meyerson asked you about this money and where it came from, he had asked you that in his office when you were there months back; is that right?

A Yes.

Q How long ago was it that you were here in Mr. Meyerson's office with the FBI agents asking you these questions?

A It was a year ago, December 18th or so, right before Christmas.

Q By any chance did you hear of any bank of yours or any business associate of yours or anybody like that being interrogated by agents of the FBI during the course of this year?

MR. MEYERSON: Objection, your Honor.

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Lentsch-redirect

THE COURT: Whether he had heard anything.

BY MR. CASTELLANO:

Q Do you know of any inquiries that were made by the FBI with reference to this money?

A Oh, to me, yes, yes.

Q Did they ask about it?

A Yes.

Q Are you talking about the conversation that you had a year ago with Meyerson and the FBI agents or inbetween that time and today?

A Now, wait a minute, say that again, Nick --

Q Well, a year ago you had this conversation with Mr. Meyerson --

THE COURT: Mr. Castellano, I think any such conversations that he overheard would be pure hearsay, anyway.

MR. CASTELLANO: All right.

Q There is no question, though, that all of these questions were asked of you by Mr. Meyerson and FBI agents when you were asked to come here by John Bonacorso.

MR. MEYERSON: Objection, your Honor.

Asked and answered, and not proper redirect.

There was nothing like that on cross.

A Right --

MR. CASTELLANO: Hold it a minute, please.

THE COURT: Wait a minute, wait a minute.

You have asked that question.

MR. CASTELLANO: I have, but Mr. Meyerson saw fit to cross examine him on that, where the money came from.

THE COURT: You asked him on redirect --

MR. CASTELLANO: I am entitled to ask him again.

May I have permission to ask him about it?

THE COURT: This one last time.

BY MR. CASTELLANO:

Q Answer the question, Mr. Lentsch.

MR. CASTELLANO: I won't ask it again.

THE WITNESS: Say it again.

MR. CASTELLANO: Would you read it to him, please?

(The reporter repeated the question.)

A Yes, and I answered everything I knew.

Q And you recall the questions --

THE COURT: Don't do it again.

MR. CASTELLANO: Pardon me?

THE COURT: Don't do it again, you have done it three times now. Ask something else.

MR. CASTELLANO: Judge, we are seeking out the truth --

THE COURT: We are --

MR. CASTELLANO: (continuing) -- are we not?

THE COURT: You don't have to be repetitious.

MR. CASTELLANO: I'm trying not to be repetitious, I am only fighting for the rights of my client.

All right?

MR. MEYERSON: Objection, your Honor.

BY MR. CASTELLANO:

Q Mr. Lentsch, did you pay taxes on every bit of that money --

A Yes.

Q (continuing) -- previous to having acquired it?

A Yes.

Q The cash, the cash money that you gave to your son, 30,000 at one time and 20,000 another time, was that money that you had gotten in the black market or anything like that?

A No, no.

MR. MEYERSON: Objection, your Honor, irrelevant.

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THE COURT: I will allow it.

A It's from frying doughnuts.

Q Would you say that the sum total of all of your transactions with the Bonacorsos, your financial situation, besides still having Local Lie is that you broke out about even?

A Yes.

Q All right.

RECROSS EXAMINATION

BY MR. MEYERSON:

Q When you said that you broke out even, the money was not repaid to you, was it?

A Yes, my son has it, I mean I have some, my son paid my wife.

Q Didn't the horses come back, didn't some horses come back to you?

A You mean come back?

We sold Jet Butler.

Q I thought this money was just a loan to Mr. Bonacorso.

A That was after my son bought the horses from Mr. Bonacorso.

Q You said he had to buy --

A He gave up the horses for money, when he gives

us the horse, we knock the money off his bill.

Q In other words, he couldn't pay?

A He couldn't -- well, the boy wanted the horses badly .

REDIRECT EXAMINATION

BY MR. CASTELLANO:

Q As a matter of fact, Mr. Lentsch, you particularly wanted the horses themselves, did you not?

A Definitely, they are worth --

Q What was the reason you wanted the horses rather than the money, Mr.Lentsch?

A They are worth a little more in Chicago than they are in -- here, dollarwise, and I wanted my -- my son wanted to work in Chicago.

Q And your original understanding with Mr. Bonacorso was that if he could pay you for the horses, after 6 or 8 months, he could give you the money, or in the alternative, turn over to you the horse flesh?

A Or the horses.

Q Or in the alternative, did he turn over the horse flesh?

A Yes.

Q As a result of all of it, you are even plus still having Local Lie?

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A Yes.

MR. MEYERSON: Your Honor, at this time I move that all the testimony be stricken out. There is no connection with this particular horse at all.

THE COURT: Well, I agree, but I said I would take it all subject to connection.

If it is not connected, ladies and gentlemen of the jury, then I will give you instructions to disregard it.

BY MR. MEYERSON:

Q Mr. Lentsch, from your personal knowledge, you can't tell me what horses were bought, you were not there; is that correct?

A Just through my son.

MR. MEYERSON: I have no further questions.

MR. CASTELLANO: Just one more.

BY MR. CASTELLANO:

Q Mr. Lentsch, based on the experience that you have had in the harness racing business, is it not a fact that every horse that is bought, every horse that is sold, is a matter of public record?

A Yes.

Q And those records are available to anyone, even the United States Government; isn't that right?

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A Yes, the United States Government can do anything.

MR. CASTELLANO: Thank you.

ALL right.

I will call Mr. Matthew Lentsch, Jr.

THE COURT: You ara excused.

THE WITNESSS: Thank you, your Honor.

(The witness was excused.)

MR. CASTELLANO: Does your Honor want to take a recess?

THE COURT: Not yet.

MR. CASTELLANO: Thank you.

When you go outside, Mr. Lentsch, will you ask your son to come in, sir?

MR. LENTSCH, SR.: Yes.

MR. CASTELLANO: Thank you.

MR. LENTSCH, SR.: Can I come back in court?

MR. CASTELLANO: Can he come back in the courtroom or would you rather have him stay out?

MR. MEYERSON ; As long as he has testified, I don't care.

THE COURT: You may come back after you get your son.

M A T T H E W L E N T S C H, called as a witness on behalf of the defendant, having been duly sworn by the Clerk of the Court, testified as follows:

DIRECT EXAMINATION

BY MR. CASTELLANO:

Q Mr. Lentsch, what is your address?

A 750 West Indian Avenue, South Bend, Indiana.

Q The gentleman who just called you into the courtroom, is he related to you?

A No, sir.

Q The man that just walked out.

A Oh, my father, my father, yes, sir.

Q That is your father?

A Yes.

Q How old are you?

A 27.

Q Do you know Joseph Bonacorso?

A Yes, sir.

Q When did you first get to know him?

A It was around Christmas of '72.

Q Did you spend any time in New York in t last year, year and a half, two years?

A Yes, I did.

Q And whom did you spend that time with?

A I was training horses with Joe and working around the barn.

Q When you came to New York, sir, had you come from your home in South Bend, Indiana?

A Yes, sir.

Q Did you come with anything, outside of your own physical belongings, did you bring anything with you?

A No, I just came, the first time by myself and looked --

Q Did you have any money in your pocket?

MR. MEYERSON: Objection, your Honor.

THE COURT: Don't lead the witness.

MR. MEYERSON: It was asked and answered, he gave his answer.

BY MR. CASTELLANO:

Q Did there come a time, Mr. Lentsch, that you had something that your father gave you?

MR. MEYERSON: Objection, your Honor.

THE COURT: Overruled.

A That my father gave me?

Q Yes.

A You mean anytime that I came to New York or --

Q What was your -- withdrawn.

Mr. Lentsch, what was your purpose in coming

to New York?

A My father sent me here to look up Mr. Bonacorso and seeing about --

MR. MEYERSON: Objection, your Honor, anything having to do with his father and his conversations are hearsay, the same as Mr. Castellano objected to on direct examination which I --

MR. CASTELLANO: I object to that statement.

THE COURT: The difference is --

MR. CASTELLANO: I will withdraw the question so he will be happy.

All right.

Q Just tell this Judge and this jury what you did when you got to New York, what did you do physically, regardless of what anybody told you, what did you do?

MR. MEYERSON: What period of time?

Q At the period of time that you were with Joseph Bonacorso?

A I looked up Mr. Bonacorso.

Q What else did you do?

A We talked about acquiring --

THE COURT: Don't say what you talked about, what did you do?

A We were -- we were going to look for some

horses to buy.

Q Did you have conversations with Joe Bonacorso?

A Yes, sir.

Q As a result of the conversations, did you buy horses?

A Not the first six weeks, we were just looking.

Q But did there come a time when you did buy horses?

A Yes, I did.

Q How many horses did you buy?

A 5 horses.

Q When it came the time to buy the horses --

MR. MEYERSON: Objection, your Honor. He wasn't there at the time of the purchase.

THE COURT: Wait a minute, wait a minute.

So far it has been "we."

Did you actually buy any horses yourself?

A No.

THE COURT: But did you buy any in conjunction, at the same time with, Mr. Bonacorso?

MR. CASTELLANO: The evidence is contrary to that, Judge.

THE COURT: Wait a minute. I am trying to find out.

Did you physically go and buy horses?

THE WITNESS: I gave Mr.Bonacorso the money.

THE COURT: Strike that out.

Please disregard that, members of the jury.

So far the objection is sustained.

BY MR. CASTELLANO:

Q Mr. Lentsch, were you aware of the arrangements and the agreements that your father had made with Joseph Bonacorso?

A Yes.

Q And pursuant to the arrangement and agreements that he had made, did your father give you some money?

A 30,000.

Q And what did you do with the 30,000, Mr. Lentsch?

A I put it in my pocket.

Q Did you come, did you leave South Bend, Indiana?

A Yes.

Q Did you come someplace? Where did you go?

A To New York.

Q And whom did you see when you got to New York?

A Joe Bonacorso.

Q And during the course of time that you were here with Joseph Bonacorso with $30, 000, did he, Bonacorso, pursuant to the arrangements he had with your father, buy certain horses?

MR. MEYERSON: Objection, your Honor.

THE COURT: Sustained.

Disregard the question, ladies and gentlemen.

BY MR. CASTELLANO:

Q Do you know of your own personal knowledge whether or not Bonacorso bought 5 horses?

A Yes.

MR. MEYERSON: Objection.

THE COURT: Wait a minute.

Sustained.

Strike it out.

That is why I asked you the question, did you actually participate in the purchase of the horses?

THEWITNESS: Yes.

THE COURT: Not what Mr. Bonacorso did; did you participate in the purchase?

THE WITNESS: Yes.

THE COURT: Do you know what I mean by "Participate," were you there when the horses were

purchased?

THE WITNESS: Yes.

THE COURT: Physically there when they were purchased?

THE WITNESS: Yes.

MR. MEYERSON: Can we have the time, the place and who was present? And what horses we are talking about?

THE COURT: Yes.

BY MR. CASTELLANO:

Q Would you give us a list of the names of whatever horses were bought by Joseph Bonacorso with your father's money, which you had?

THE COURT: When you were present.

THEWITNESS: The 5 horses?

THE COURT: When?

MR. CASTELLANO: The 5 horses.

THE COURT: Only the ones you were present at.

THE WITNESS: I was present for all 5.

THE COURT: Tell us when that took place and the name?

THE WITNESS: Jolly Timmy, around the middle of February;

Then Arnbor Invader, roughly three weeks later;

Jet Butler, three weeks later;

Local Lie, a week later;

And the last one was Timber.

Q What who?

A Timber.

Q What was the total amount of money that was expended towards the purchase of those horses?

MR. MEYERSON: Objection, your Honor.

So far all we have had is this conclusion.

Where was this --

THE COURT: Wait a minute.

If he knows.

BY MR. CASTELLANO:

Q Do you know of your own personal knowledge what was the total amount of money that was expended for the purchase of those 5 horses?

A Roughly $45,000, I would say.

Q Now, how many of those horses were bought for in cash and how many were bought by claim?

A One was bought by cash and the four were claim.

Q When a horse was claim, would you tell the Court and jury what you physically did in order to have Joseph Bonacorso acquire that particular horse?

MR. MEYERSON: Objection, your Honor.

This has nothing to do with the horse in issue, it has nothing to do with what the issues are in this trial.

THE COURT: Yes, sustained.

MR. CASTELLANO: Except, if your Honor pleases, that it shows a course of conduct and shows that this man was investing his father's money --

THE COURT: Wait a minute, no speeches.

MR. CASTELLANO: Okay --

THE COURT: At this time --

MR. CASTELLANO: Am I ---

THE COURT: Wait a minute --

At this time I'm going to sustain the objection.

MR. CASTELLANO: Then your Honor is going to prohibit me from inquiring as to the other four horses; is that right?

THE COURT: At the moment.

MR. CASTELLANO: Right.

I take exception.

THE COURT: I am not saying if you establish the fact with respect to the others I won't let you, but at the moment I'm going to sustain the objection.

BY MR. CASTELLANO:

Q Now, when for the first time in your life, Mr. Lentsch, did you see the horse Jolly Timmy?

A In February.

Q And where was it that you saw that horse?

A In Joe's Stable.

Q And --

THE COURT: Wait a minute.

MR. MEYERSON: I didn't hear that.

MR. CASTELLANO: "In Joe's Stable."

THE COURT: Wait a minute.

MR. MEYERSON: Objection, your Honor.

THE COURT: You told this Court that you participated in the purchase of all five of these horses --

THE WITNESS: Yes.

THE COURT: (continuing) -- and that the first time you saw this horse was in Joe Bonacorso's Stable?

THE WITNESS: Yes.

THE COURT: Did you actually have anything to do with the layout of the cash for this horse, you, personally?

THE WITNESS: Yes.

THE COURT: Whom did you lay the cash out to and when?

THE WITNESS: Igave it to Joseph Bonacorso.

THE COURT: No, no, no.

My question to you is;

"Did you participate in the purchase from the seller,"and you, under oath, told this Court that you had.

Do you understand what I am saying to you?

THE WITNESS: Yes, sir.

THE COURT: I want the truth now, you understand?

THE WITNESS: Yes.

MR. CASTELLANO: Judge, are you implying that he is not telling the truth?

THE COURT: I'm not implying anything.

MR. CASTELLANO: Okay.

THE COURT: The first time you saw this horse you say was in Joseph Bonacorso's stable?

THE WITNESS: Yes.

THE COURT: And my question is:

"Did you lay out any cash to any seller of those horse, you, yourself, personally?

MR. CASTELLANO: To the seller.

THE COURT: To the seller of the horse.

THE WITNESS: To the seller of the horse, no.

THE COURT: All right.

Strike it all out.

Ladies and gentlemen:

You will disregard all of the testimony.

MR. CASTELLANO: I have no further questions and I take exception to your Honor's ruling.

THE COURT: All right.

Ladies and gentlemen:

You are excused for the moment.

We will take our morning recess.

I want to discuss something with counsel.

(At 11 o'clock A.M. the jury left the courtroom.)

MR. CASTELLANO: Would you wait outside, Mr. Lentsch?

(The witness then left the courtroom.)

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THE COURT: Look, Mr. Castellano, I don't know what you knew by way of the facts here, I asked that question purposely because there was an objection by the United States Attorney as to the -- this man's testimony with respect to these 5 horses, and he represented to the Court that he had participated in the purchase of this horse --

MR. CASTELLANO: Yes.

THE COURT: (continuing) -- from what he just told me he didn't participate in the purchase.

MR. CASTELLANO: May I be heard?

THE COURT: Yes, you may.

MR. CASTELLANO: You see, your Honor, your Honor limits participation to a literally turning over of cash to a seller, but where a man takes $4,000 and gives it to Joseph Bonacorso to buy the horse, he, as a layman says, that is participation.

You are implying to this jury that he is perjuring himself and I violently object to that because it is not so, Judge. He is, as honest as the driven snow.

But when you ask him, did you literally participate, well, he said, yes, he is honest.

THE COURT: This was the objection of the Government.

MR. CASTELLANO: He doesn't understand the legal objection, all he is answering is the Judge of the Federal Court and when asked, Did you participate? He says, Of course I participated.

MR. MEYERSON: Mr. Castellano did know the import of it --

MR. CASTELLANO: Meyerson, don't you start with me.

THE COURT: Now wait a minute, wait a minute, Mr. Castellano.

I don't believe anybody misunderstood the question asked in the light of the objection of the United States Attorney.

MR. CASTELLANO: Then I invite you to invite Mr. Lentsch back in, put him on the witness chair and question him to your heart's content and see.

I would think that he understood when you said, "Participation," that it meant, Did you have something to do with it, and, surely, he laid out four grand, he participated.

THE COURT: You know, Mr. Castellano, that that was not the purpose of any of that portion of the testimony.

MR. CASTELLANO: Well, I maintain that the boy is testifying honestly, he is not looking to

confuse anybody, he was sent here with $30,000 and then given 20,000 on top of it to buy four horses with Joseph Bonacorso, and that is what he is testifying to.

THE COURT: But you put this witness on the stand with the purpose of showing that he participated in the purchase of this horse, and the fact is that he didn't participate.

MR. CASTELLANO: Judge, why, why do you limit me to say I put him on to testify that he participated in the purchase, why do you say that, just because I call a witness doesn't mean that I have declared myself on my forehead that, 1, as to what he is going to testify to and why he has been produced? He is produced, as I said to you, and it is germane to the issue, he was sent here to buy horses with Joseph Bonacorso, he was given $50,000 by his father, and it is most --

THE COURT: Well, he doesn't know whether $5 was payment for Jolly Timmy or any other horse.

MR. CASTELLANO: Yes, he does .

THE COURT: How does he know?

MR. CASTELLANO: He got the certified check cashed and he carried it to Joseph Bonacorso to buy the race horse, and there is a public record of this,

your Honor, and he knows, your Honor, he knows, he knows because, as your Honor does not know, is not particularly familiar with the procedures --

THE COURT: I am not talking about a claimed horse, I am talking about Jolly Timmy, the first time he saw the horse when it was really in the stall.

MR. CASTELLANO: Haven't you ever bought, haven't you ever bought something you haven't seen? I have bought many things which I have never seen before, I have bought a million things which I never have seen before.

THE COURT: He represented that he had purchased the horse, but --

MR. CASTELLANO: He answered your question and said, "Yes, he participated." He believed in his heart and soul that "participation" meant, I gave Bonacorso $4,000 to buy the horse.

THE COURT: Keep your voice down.

The fact is --

MR. CASTELLANO: It is exasperating, Judge, to be confronted with such a situation when we are seeking the truth in this case.

THE COURT: Yes, we are.

MR. CASTELLANO: Then let the man testify and let him know about the circumstances which

you --

THE COURT: You know as well as everybody else does, in dealing with this case right now, that one of the key issues is whether or not Mr. Bonacorso actually paid for this horse. This is one of the things that we are trying to find out.

If you are talking about trying to find out the truth, you cannot establish it through this witness, which is what you are attempting to do.

Mr. CASTELLANO: But you are the one who struck from the evidence all of his testimony merely because he said, "I participated in the purchase," and the legal connotation of that is that you must have paid the money directly to get the horse. I have more evidence to elicit from this man, all about what he did with Jolly Timmy.

THE COURT: Let us put him on the witness stand now and see what that evidence is and then --

MR. CASTELLANO: Then we will re-read it to the jury?

THE COURT: Well, you can ask him it again.

MR. CASTELLANO: Call Mr. Lentsch, Jr., please, Mr. Fanning, will you?

Thank you, thank you.

THE COURT: All right, go ahead.

M A T T H E W L E N T S C H, having been previously sworn, continued to testify outside the presence of the jury as follows:

DIRECT EXAMINATION

BY MR. CASTELLANO: (continued)

Q Mr. Lentsch, will you tell this Judge exactly everything that you ever did or had to do with the horse Jolly Timmy, whatever you had -- have had to do with that horse?

A When I first got up here we -- I was up here about 6 weeks, then one day Joe happened to mention to me that he knew of a horse to buy if the deal didn't go through with another guy, another guy had this deal, Mr. Forrest Gerry had this deal with the horse Jolly Timmy, and he told Joe that he was going to buy him and he paid down like a thousand dollars on him, but the deal might not go through, it might be, you know, the deal -- we might acquire the horse. It had been a lame horse, but Joe is really good with lame horses.

Then 2, 3, 4 days or something, Joe says, "Well, they are not going to buy the horse, the man already paid down a thousand dollars, maybe we should buy him, but they wanted $4,000 for the horse."

So we thought about it, and Joe said, "We had

better grab," because he could get him sound. I guess he was a pretty lame horse, and I just gave Joe the $4,000.

Q When did you see the horse for the first time?

A I saw him like two days later when I went to the barn that morning.

Q When this Judge asked you whether you actually participated in the purchase of the horse, what did you mean, Mr. Lentsch, what did you mean, that you actually gave any money to the sellers?

A He asked me if I gave the money to the seller.

Q Later, the -- but first he asked you did you participate in the purchase.

A And I said yes.

Q Yes, and your participation consisted of what, what did you do to participate in the purchase, what did you physically do?

A I gave Joe Bonacorso $4,000.

Q Is that exactly what you meant?

A Yes.

Q Did you mean that you gave any money physically to a Rubin or a Schweitzer or to any other individual?

A No.

Q Do you know Rubin or do you know Schweitzer?

A No.

Q So that is as to participation?

A Yes.

Q Now, then, when did you first see Jolly Timmy?

A Two days after I bought him.

Q Where was it that you saw him?

A In Joe's Stable.

(continued on next page.)

Q What did you see Joe Bonacorso do with Jolly Timmy?

A We worked on his legs for 10 days.

Q Yes, then?

A Then we finally took him on a track and we was training him the next two or three weeks.

Q Yes, then?

A Then we qualified him.

Q Yes, then?

A Got him to the races.

Q And when you say qualified him, was that in a qualifying race?

A During the day, yes.

Q Were there 7 other horses in that race?

A Yes.

Q How did you make out in that race?

A He was fast, but you have to qualify in time, it doesn't matter what place, the time, it didn't matter where you were.

Q And was he entered in the races?

A Next week.

Q How was he entered and raced?

A Under Bonacorso.

Q Under whose name was he qualified under?

A Bonacorso.

Q Did there come a time when you saw the bill of sale?

A I saw the bill of sale a few days later.

Q I show you defendant's exhibit B in evidence, that is a photostat of the actual bill of sale that you saw?

A Yes.

Q And does that convey the horse to Mary Bonacorso?

A Yes.

Q For $4,000?

A Yes.

Q And is that the name of the man thatyou heard was the owner of the horse?

A Yes, Schweitzer.

Q Now about when did you see that bill of sale?

A Oh, within the next week.

Q Who showed it to you?

A Joe did.

Q What happened to the original?

A I guess Joe has it.

Q And did there come a time that -- incidentally, you have had experience with and know about the purchase of horses in the harness business?

A Yes.

Q Is there a tax that must be paid, too?

A Yes.

Q Was there a tax paid on Jolly Timmy?

A Yes, I will tell you about a month later I was over Joe's house, Mary was making out a check to pay the tax.

Q Mary who?

A Mary Bonacorso, and I saw the name Jolly Timmy on it, and we went and mailed it that afternoon.

Q That was the sales tax on this particular horse?

A Yes.

Q Was a sales tax paid on all the horses purchased?

A Yes.

Q And you saw her making out that check?

A The check.

Q And then what else happened in -- with the horse Jolly Timmy?

A Well, when we raced him and he won --

Q He came in first?

A Yes.

Q How much money did he win?

A The purse was like $5,000, so we got like $2,500.

Q The winner gets half of the total purse?

A Yes.

Q Were there other horses in the race?

A Yes.

Q What do they get?

A The second horse gets 25 percent, the third gets 12 percent, the fourth horse gets 8 percent and the fifth horse gets 5.

Q And during the course of the time that this horse was being trained and qualified and raced, did you have occasion to see this horse almost every day?

A Every day I was there.

Q Were you working with Joseph Bonacorso every day?

A Daily, every morning.

Q And for how long did -- did this horse race again after having won a race?

A He raced about 3, 4, 5 times after that.

Q Did he have any other successful races?

A He was third twice, then he was fifth, then he went lame.

Q Now, how many horses did Joseph Bonacorso

buy all told?

A 5.

Q And as to each transaction, is there a public record of that transaction?

A The last 4 were because they are claim.

Q How about the Jolly Timmy, don't the eligibility papers show?

A Yes, that he is authorized and everything.

THE COURT: That shows from whom bought and who sold and who previously owned it?

A Yes.

Q Of the 5 horses that Bonacorso bought, all of which was with your father's money, what happened to those 5 horses --

A Well --

Q To each one?

A Jolly Timmy we sold.

Q You sold?

A We sold.

Q How much did you get for him, do you remember?

A $5,000.

Q All right.

Then?

A Jet Butler, we took him back to Chicago and raced him there for a while, then we brought him back to New York and he was sold here in New York.

Q Right.

How much, do you remember?

A $10,000.

Q All right.

A Then Armbor Invader, we took him to Chicago, we still had -- have got him.

Q You mean at the present time?

A Yes.

Local Lie, she is a mare, she went kind of lame, I was asked for her as a breed mare, they wanted to pay $12,000, that is a big sum for a lame horse.

Q How much did you pay for Local Lie?

A 10.

Q And you were offered 12?

A Right, but we are going to breed her ourselves.

Q What about Timber?

A Timber, we brought him, yes, we brought him here and he was claim here and like three weeks later, we sold him for a profit of $2,500, plus he was second or third a couple of times when he raced, and he made some

money.

THE COURT: Let me ask some other questions: Did you ever meet Forrest Gerry?

THE WITNESS: I have known Forrest Gerry when I was 11 years old.

Q Did you meet him in connection with Jolly Timmy?

THE WITNESS: No.

THE COURT: Did you ever pass any money to Forrest Gerry?

THE WITNESS: No.

THE COURT: Did you ever pass any to Mr. Schweitzer?

THE WITNESS: I didn't even know Mr. Schweitzer.

THE COURT: Did you ever pass money to Mr. Rubin?

THE WITNESS: I wouldn't know him if I saw him.

THE COURT: Did you ever see any money passed to these two gentlemen in connection with Jolly Timmy?

THE WITNESS: No.

THE COURT: I don't see where it is connected.

MR. CASTELLANO: You mean to say, Judge, that this witness cannot testify --

THE COURT: I don't see the competency.

MR. CASTELLANO: You don't see the competent evidence as to what he observed and had to do with the horse Jolly Timmy from two days after the purchase right through to the present day, that is not material?

THE COURT: What does it have to do with it?

MR. CASTELLANO: It precludes the possibility that Gerry ever owned him or had anything to do with him.

Isn't that necessary for a defendant?

THE COURT: How does he know?

MR. CASTELLANO: He can testify to it, he got the horse back from Mary Bonacorso, they sold the horse, Gerry never had anything to do with it.

THE COURT: That doesn't preclude the fact that Gerry --

MR. CASTELLANO: Yes, Judge, fine, make, your Honor, make whatever ruling your Honor rules.

THE COURT: Now wait a minute.

MR. CASTELLANO: I have tried my best to

show you, Judge.

THE COURT: Your best hasn't been good enough for me yet.

MR. CASTELLANO: Make your ruling and I will take my exception.

THE COURT: Mr. Castellano, you show me how this witness with his second-hand knowledge of this transaction, can prove that Mr. Gerry didn't buy this horse.

MR. CASTELLANO: I can show you by his first-hand knowledge as to everything that happened to that horse, day by day, during the course of the next succeeding four month period, which shows and indicates as to who owned the horse and how he got the horse back, or his father got the horse back, and that then it was sold, it precludes the possibility.

Now your Honor has permitted him, Mr. Meyerson, to put a Rubin on the stand, who makes a conjecture that because he got money from Forrest Gerry, then of necessity it had to be his horse.

The defendant has to defend himself, he is charged with a perjurious statement that it was Gerry's horse rather than his own.

Where else am I going to be able to show this, split open somebody else's head, I have to bring a witness who knows exactly what was done with that horse.

Mr. Meyerson can ask him whether or not Gerry had anything to do with the racing or putting him in shape or anything about it, if he wants to, but this is material evidence as to this case.

MR. MEYERSON: Your Honor, there is no question but that the Government concedes there are public records and there is ostensibly correspondence, but the issue in this case is, was there a hidden owner.

This witness was brought in to greatly prejudice the Government's case.

It is conceded as a fact that in public, there are documents, but actually --

THE COURT: Yes, there has never been any question about there being records that Mary Bonaventure owned the horse, but it is the Government's contention that she wasn't the true owner.

MR. CASTELLANO: Well, your Honor, since it is their burden of proof, it is their burden, it is their conjecture that it was hidden ownership, like he keeps saying, but they have never produced proof

to say that money was paid by Forrest Gerry for this horse, and it couldn't have been merely imagination.

THE COURT: There is no proof to the contrary.

MR. CASTELLANO: There is proof beyond a reasonable doubt that this horse is his because he turned over the money.

THE COURT: Well, Mr. Castellano, when one buys something, one pays something for it and if he puts it in the name of somebody else, then there subsequently is confusion as to the question as to who put up the cash and who owns it.

MR. CASTELLANO: But the proof in a criminal case is generally regarded as having the Government to prove beyond a reasonable doubt --

THE COURT: Well, Mr. Castellano --

MR. CASTELLANO: If I am permitted to finish --

And not only must they prove it beyond a reasonable doubt, but the defendant, if he sees fit to exercise his rights, he can seek to bring in evidence to negate that possibility and negate the allegations of a witness who is under threat of

perjury and everything else.

MR. MEYERSON: May we ask the witness at this time if he would step outside?

MR.CASTELLANO: Mr. Lentsch, will you step outside, please?

(The witness then left the courtroom.)

MR. MEYERSON: As I understand it, Mr. Castellano waived his rights at the time to argue whether the Government has proved its case, unless he is renewing the argument now, but this has nothing to do with this witness and I ask that this witness and his father's testimony be stricken out at this point.

THE COURT: Mr. Castellano, if this witness or his father had witnessed the payment of money to Mr. Gerry -- the payment of money to Schwartz or the payment of money to Mr. Rubin or had done so himself, as this witness implied to the Court that he did, when the Court asked, or at least the Court got that impression, rightly or wrongly, it would be one thing, but the fact is that this witness gave Mr. Bonacorso 25,000, $50,000, at or about this period of time, and I don't think that that negates the Government's proof that the cash

paid in this case was paid by Forrest Gerry, and that is the thing that is troubling the Court.

Now this doesn't seem to be able to be brought across to you.

MR. CASTELLANO: Judge, sufficiently so that I say to the Court, most respectfully, it's troubling you, please make a decision; whatever your decision is, it will be the record.

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THE COURT: Let me ask Mr. Meyerson a few questions:

Is it your position, Mr. Meyerson, if Mr. Castellano can show through this witness -- through the latter part of this witness' testimony that at least at some day, some point after the horse arrived at the stables, that by virtue of the fact that he had given Mr. Bonacorso some $4,000 in cash at some point, that he and his father thereafter became title-holders to this horse and sold it, that this wouldn't be relevant evidence to show that at least at some point in time, maybe not at the point when you say it was pertinent, but at some point in time, Mr. Bonacorso did have title to this horse.

MR. MEYERSON: That's right, your Honor, it is completely irrelevant. The point in time happens to be --

THE COURT: Why isn't the other half of your coin --

MR. MEYERSON: The point in time happens to be after Mr. Bonacorso was before the Grand Jury twice, when, at that point it would be completely irrelevant what actions he would take.

THE COURT: Was it after --

MR. MEYERSON: If he went around denying this--

THE COURT: Was it after he had been before the Grand Jury?

MR. MEYERSON: Yes, sir.

If he went around denying his guilt to everyone, we would not allow that in evidence, and this is the same thing.

I . I may go back to hearsay, I know -- I hate to do it at this point, but an act, even though it is physical, can be hearsay for the same reason that I just pointed out, because it depends on what it is coming in for.

In this particular case, it would come in for the same reason as after being called before the Grand Jury and lying, he goes around beating his breast, claiming he is innocent; this is an act which does the same thing.

THE COURT: I understand that.

But what you are saying to me is that the repossession of this horse and the sale of it by the Lentsches was after the testimony of Mr. Bonacorso before the Grand Jury.

MR. MEYERSON: That is correct.

THE COURT: So that the sale afterwards is, itself, in the nature of a self-serving statement.

MR. MEYERSON: Exactly, your Honor.

THE COURT: Do you agree with that fact that the sale was after the testimony, the repossession and the sale was after the testimony, Mr. Castellano?

MR. CASTELLANO: Which sale was that, Judge, from Bonacorso to Lentsch?

THE COURT: Mr. Lentsch testified that he, at some future point in time, after February of 1973, that he took the horse presumably back to South Bend and sold it with his father and netted $5,000, as I understand his testimony out of the presence of the jury, on the sale.

Mr. Meyerson says that that took place after Mr. Bonacorso's testimony --

MR. CASTELLANO: We have in evidence an exhibit which would show us the exact date.

MR. MEYERSON: It is exactly what I said, your Honor, the date of sale is September 22nd, and it was not even entered before the USTA until October 8th.

At that point Mr. Bonacorso had already been before the Grand Jury and lied on June 11th and September 14th.

MR. CASTELLANO: When was he indicted?

THE COURT: February 25, '74.

MR. CASTELLANO: So that theindictment was --

THE COURT: Waita minute, now.

He testified the 14th day of September --

MR. MEYERSON: And June 11th.

THE COURT: And December 19th.

MR. MEYERSON: Yes. And also June 11th. We already have the testimony admitted in evidence and it is the same exact testimony. I just used that as part of the indictment, you know, the most concise language.

However, the point is that he was before the Grand Jury in June.

He was called back before the Grand Jury in September and each time he told the same story, that Forrest Gerry had nothing to do with this, that he dealt directly with Steve Rubin.

To allow any conduct after that point--

THE COURT: Have yougot the June 11th testimony?

MR. MEYERSON: Yes, sir.

By the way, your Honor, that was also after a very detailed statement to the FBI before it came into the Grand Jury, also to the same effect.

Do you wish to see that?

THE COURT: Let's have Mr. Lentsch come back in here again.

M A T T H E W L E N T S C H, having been previously sworn, resumed the stand, and testified further as follows:

THE COURT: Mr. Lentsch, I think you testified that you saw this Jolly Timmy first in Mr. Bonacorso's stable; is that correct?

THE WITNESS: Yes.

THE COURT: When did you, after that date, which I think you testified was sometime in February of 1973 -- is that right?

THE WITNESS: Yes.

THE COURT: -- when did you transport that horse for the first time from a stable of Mr. Bonacorso's to a stable of your own or your father's?

THE WITNESS: It was always in New York.

THE COURT: When time came to sell the horse, who negotiated the deal?

THE WITNESS: When we sold the horse, Joe did.

THE COURT: Did you have anything to do -- I think you now understand what I mean when I say did you have anything to do with the sale of the horse.

Did you personally have anything to do with the negotiation of the sale of that horse?

THE WITNESS: When he was sold -- I signed the papers and all that.

THE COURT: But it wasn't in your name?

THE WITNESS: It was in my name when we sold it.

THE COURT: It was?

When was it transferred into your name?

THE WITNESS: Around September.

THE COURT: What date in September?

THE WITNESS: I would say in the middle of September.

THE COURT: It was actually transferred into your name from Mary Bonacorso to Lynch around the middle of September?

THE WITNESS: Yes.

THE COURT: This is Jolly Timmy we are talking about?

THEWITNESS: Right.

THE COURT: Do you have registration papers which would show that?

THE WITNESS: Yes.

MR. MEYERSON: Those are the registration papers, your Honor.

THE COURT: All right.

Is this the registration paper transferring it from Mary Bonacorso to Matthew Lynch, which is part of exhibit 7 in evidence; is that correct?

THE WITNESS: No, sir. This is from Mary Bonacorso to me.

THE COURT: Yes.

THE WITNESS: Yes.

THE COURT: Does the date on there refresh your recollection as to when it was transferred to you?

THE WITNESS: September.

THE COURT: What date in September?

THE WITNESS: September 22.

THE COURT: September 22, 1973?

THE WITNESS: Yes.

THE COURT: When did you sell that horse for yours and your father's account?

THE WITNESS: When did we sell the horse?

THE COURT: Yes.

THE WITNESS: Roughly a month later.

THE COURT: In October?

THE WITNESS: Yes.

THE COURT: So that you obtained the $5,000 in October?

THE WITNESS: Yes.

THE COURT: All right, Mr. Castellano, I will allow the witness' testimony to this extent and to this extent only, that in or about whatever date in February --

Would you leave the room for a moment, Mr. Lentsch, I want to talk to Mr. Castellano.

(Whereupon the witness Matthew Lentsch left the courtroom.)

THE COURT: That in or about whatever date he says it was that he gave $4,000 to Mr. Bonacorso, in accordance to instructions given him by his father, he can testify that he gave him $4,000 and that it was his understanding that that was for the purchase of Jolly Timmy.

But I am not going to allow the evidence after the testimony before the Grand Jury as to the transfer of the horse to his name and then the sale out of his name to --

MR. CASTELLANO: What about the testimony referenced to what he and Joe Bonacorso did with this horse from the date of the sale, or a day or two later, from that date on?

THE COURT: That could be just-- you mean that

thay raced the horse?

MR. CASTELLANO: Along the line of what I had asked him in your Honor's presence.

MR. MEYERSON: There would be a strong objection from the Government.

THE COURT: I don't see that that-- I have no objection to your asking whether the horse was raced, but as to whether or not they raced the horse, so to speak, that carries an implication that it was this man's horse.

But at this point --

MR. CASTELLANO: Don't you realize that he says that he worked for Bonacorso, that he was seeking an apprenticeship with him, that he spent all the time with him and that he testified that he literally lived with Joe Bonacorso to learn what you do with a lame horse to get him in shape, and that's what he testified to?

THE COURT: I don't see that that changes the fact with respect to who actually owned the horse.

MR. CASTELLANO: You mean to say that a man can't testify to that which he actually experienced and did, he himself with the horse in question in this case?

If your Honor says that, then I'd best just sit down; there is nothing I can say.

THE COURT: Wait a minute, Mr. Castellano.

The question is, how is it relevant to show who was the actual owner of this horse.

MR. CASTELLANO: It is most relevant because they have the duty and the burden of proof to prove guilt of the defendant beyond a reasonable doubt.

A defendant has a right to show what was done with the particular object involved, so as to give to the jury some understanding as to what was done with this horse.

THE COURT: But the fact that the horse was raced does not have any --

MR. CASTELLANO: That, in and of itself, no.

But the fact that it was trained, but the fact that it was worked on, but the fact that it was lame, but the fact that it was qualified, but the fact that-- and I can go on endlessly; all of those things together are material, Judge.

MR. MEYERSON: Your Honor, there is no question that Joe Bonacorso trained the horse. The question was for who, for himself or for someone else?

MR. CASTELLANO: Let the jury determine what

the inference is to be drawn.

THE COURT: His point is, as I understand it, and he may have a point, his point is that would this man Lentsch have devoted his entire February through September working and training and helping you with his horse, if he didn't really, in effect, have some interest in it, and the --

MR. MEYERSON: But he didn't know, your Honor, that's the whole point. The whole point here is that you are letting -- the point is the indictment says, "Did you deal directly with Steven Rubin?

"Yes.

"Did you pay him cash or check?

"Cash."

THE COURT: But it is his position that one of the positions that the Government has taken up until now is that Mr. Bonacorso was not in a financial position to be able to make this advance or purchase, or whatever it is.

MR. MEYERSON: Right.

THE COURT: -- through Mr. Gerry or otherwise.

MR. MEYERSON: And that Forrest Gerry is a hidden owner.

THE COURT: Mr. Castellano has produced two witnesses to show where he was in a position to

make the advance and in fact, one witness is going to say, "I handed him $4,000."

That's why I say that that is perfectly proper testimony.

MR. MEYERSON: Your Honor, if you give a limiting instruction that this is only for the fact that he was in a position to pay and not that he paid, he did -- it has no bearing on who negotiated --

THE COURT: The second half of the question is, would Mr. -- Mr. Castellano's point is, would Mr. Lentsch have spent this amount of time with these horses if he didn't have a financial interest in the horses?

If, in fact, they did belong to Mr. Gerry and not to Mr. Bonacorso, as the Government contends, would he have spent all of this effort to qualify him and so forth?

MR. MEYERSON: The point is, he didn't know--

THE COURT: He is entitled to that inference, or such inferences as might flow from it, as I see it.

MR. MEYERSON: Your Honor, if he would not be allowed to testify because he only had secondhand knowledge of who owned the horse, then anything he

did in reliance on that secondhand knowledge is likewise banned.

You are allowing in a reliance on secondhand knowledge to come in without allowing secondhand knowledge to come in.

You've banned me from any hearsay statement because it was secondhand, yet you are allowing reliance on the secondhand knowledge to come in.

It is completely incongruous.

THE COURT: I let you get in reliance --

MR. CASTELLANO: That is why the motion to dismiss at the end of the entire case should be granted, because his evidence was a reliance on that which A. Rubin says his understanding of who bought the horse because of who handed him the money.

He is doing and has done that which I am now doing in order to circumvent that evidence.

MR. MEYERSON: That's not the Government's position at all, but I am not going to argue that.

THE COURT: Wait a minute.

The only thing is I don't think you can go beyond the date of the second appearance before the Grand Jury. I don't think you can thereafter show, Mr. Castellano, that after that second appearance before the Grand Jury, then the ownership of the

horse was transferred -- I do agree with the Government on that point.

MR. CASTELLANO: I don't know what your Honor is going to decide, but whatever it is, I will be glad to go along as long as we move it along.

THE COURT: I will let you put in through this witness the fact that at or about February, whatever date it is, he paid Mr. Bonacorso $4,000 in cash and that two or three days later, whatever the fact was, he saw this horse in Mr. Bonacorso's stable, and that thereafter, he worked with Mr. Bonacorso in training and qualifying this horse throughout the balance of the summer.

MR. CASTELLANO: And that's it?

THE COURT: And that's it.

MR. CASTELLANO: Then I take exception to what you have prevented me from, and we will proceed, okay?

THE COURT: Yes.

MR. MEYERSON: May I have a limiting instruction on this?

THE COURT: Yes. I will tell the jury when they return.

MR. CASTELLANO: How about a recess, Judge?

THE COURT: We will take a five minute recess.

(Recess.)

THE COURT: Now, ladies and gentlemen of the jury, you must not, and I instruct you, you must not take my questions of this witness in any way against the defendant in this case.

What occurred here was on a question of law, which I think you understand, a question of law of what constitutes admissible evidence which you are to hear.

The fact that Mr. Castellano and the Court disagree on what's admissible and what is not admissible is not something that you should hold in any shape or form against the defendant, nor may you take into consideration any part of that colloquy and say, because this is a defendant-witness, we are going to hold that against the defendant, that would be improper and it's not for you to do.

This question of admissibility and how far something can be admitted into evidence, and how much can be received by you is a difficult question and attorneys and courts legitimately disagree.

On this particular question, as you can gather, the Court was of the impression rightly or wrongly, that this witness said that he had

participated in the actual purchase. The Court has examined the witness in your absence, he was under the mistaken impression of what the Court meant by the word participated.

So I'm going to allow him to testify to certain events, certain facts that he did, not the conversations he had, but certain events which he had personal knowledge of, but you are not to take into account his prior testimony as far as partidpation.

You will hear the extent of what he did and then you will consider that in determining this defendant's financial ability to do what he said he did in this particular case, and that is essentially what, at least a portion of this evidence is being offered for, and the rest of the evidence he'll be permitted to testify to.

You will be able to weigh that and draw such inferences that you think are drawable from it, but again, I caution you, you are not to take this disagreement with Mr. Castellano or this Court's questioning of this witness in any way against the defendant.

All right.

M A T T H E W L E N T S C H , resumed the witness standing, having been previously sworn, and testified further as follows:

DIRECT EXAMINATION

BY MR. CASTELLANO: (continuing)

Q Mr. Lentsch, did there come a time when you had occasion to give some money to Joe Bonacorso relative to Jolly Timmy?

A Yes.

Q How much did you give him?

A $4,000.

Q How long after you gave Joe Bonacorso $4,000 did you actually lay eyes on the horse Jolly Timmy?

A Couple of days.

Q Where was it that you saw the horse?

A Yonkers in Joe's Stable.

Q Does Joe have a stable in Yonkers?

A Yes.

Q Did you and Joe Bonacorso discuss the horse, have a conversation with reference to the horse?

A Yes.

Q What did you actually, physically do together with Joe Bonacorso and the horse Jolly Timmy?

A We knew what the buying of the horse -- a

few days -- somebody else was going to purchase the horse.

MR. MEYERSON: Objection.

THE COURT: Sustained. Disregard it. Listen to the question that Mr. Castellano asked you. He did not ask you for conversations you had with Mr. Bonacorso. Those are not admissible. He asked you what you did. D-i-d.

THE WITNESS: I gave Joe Bonacorso $4,000.

THE COURT: What did you do with the horse after that?

THE WITNESS: We were rubbing his legs for a week.

THE COURT: What else did you do?

THE WITNESS: Put him back in training slowly. Some 3, 4 weeks later, we qualified the horse.

Q What is that?

A A practice race, you go fast enough to show you are good enough to race; or the horse hasn't raced for 30 days -- all horses must qualify for the public to bet on.

Q Have you at any time in your testimony -- don't give us any of the conversation.

Now, after you and Joe qualified the horse,

who rode the horse?

A Joe Bonacorso.

Q Is the horse listed in a catalog on a qualifying race?

A Is he listed in a catalog?

Q Yes.

A Yes.

Q Did you see that?

A They just have it on a slip there in the office that he made the qualifying.

Q And was the owner's name listed?

A The owner's name is not listed.

Q Now, what did you do with the horse Jolly Timmy?

A We put him in a race the following week.

Q And about when was that?

A A week later.

Q About when was the week later, have you any idea of the time, if you can?

A About May.

Q Did the horse race?

A The horse raced that night.

Q And who drove the horse?

A Joe Bonacorso.

Q Did you witness the race?

A Yes.

Q Did you see Joe Bonacorso ride the horse?

A Yes.

Q Did you see a program for that night?

A Yes.

Q Was the horse listed in the program?

A Yes.

Q And who was the owner named listed in that program?

A Mary Bonacorso.

Q And what did the horse do, time, place and placement-wise?

A It won the race in 2:05.

Q How much was the horse?

A Around 5,000.

Q And when a horse wins a race in harness, and whether or not it be the same in flat tracks, how much of the purse does the winner get?

A 50 percent.

Q Does the horse that comes in second get any percentage of the purse?

A 25 percent.

Q And the horse that comes in third?

A 12 percent.

Q And the horse that comes in fourth?

A 8 percent.

Q And the horse that comes in fifth?

A 5 percent.

Q So that on this particular night, Jolly Timmy won half of the $5,000 purse?

A Right.

Q Did the horse race again after that?

A Yes.

Q About how much later?

A A week, 10 days.

Q What did the horse do in that particular race?

A He was third.

Q Were all the other facts and circumstances the same, program, etcetera?

A Yes, sir.

Q And he came in third?

A Right.

Q Did he get a piece of the purse?

A Yes.

Q When did the horse race again?

A About 10 days later.

Q What did he do then?

A She was third.

Q During the course of these weeks of qualifying him and taking care of him, and racing him at these various times, where did you spend your time?

A I came to the barn 5, 6 mornings a week, and worked with Joe.

Q Did you work with somebody?

A Yes.

Q Who did you work with?

A With Jolly Timmy and the other horses and Joe's boys.

Q Was the defendant there?

A Yes.

Q Did you work with the defendant?

A Yes.

Q And did the defendant do anything about Jolly Timmy?

A Yes, he showed me how to get the legs down on a lame horse.

Q Was Jolly Timmy lame when you purchased him?

A Yes.

Q When it was purchased?

A Yes.

Q Incidentally, did you ever see a bill of sale for the horse Jolly Timmy?

A Yes.

Q And when was it about that you saw the bill of sale?

A About a week later.

Q A week later from what?

A From the purchaser.

Q And I show you defendant's exhibit B in evidence, a photostat of the bill of sale.

Is that an exact photostat of the original bill of sale that you saw for the horse Jolly Timmy?

A Yes, sir.

Q And who does that show that the horse was sold to?

A Mary Bonacorso.

Q And for how much money?

A $4,000.

Q And what date does it have on it?

A February 16th.

Q And who signed the bill of sale?

A Richard Schweitzer.

Q Do you know Richard Schwaitzer?

A No, sir.

Q Did you ever see him in your life?

A No, sir.

Q Do you know a fellow by the name of Rubin?

A No, sir.

Q Did you ever see him in your lifetime?

A No.

Q And where did you see this original bill of sale? Who had it, or where was it?

A It was at Joe Bonacorso's house.

Q Now, when a horse is purchased, are there any taxes that have to be paid on it?

A Yes.

Q What tax?

A 7 percent sales state tax.

Q And with regard to the horse Jolly Timmy, within your personal knowledge, do you know whether or not a sales tax was paid on that horse?

A Yes.

MR. MEYERSON: Objection, conclusion. Was he there?

MR. CASTELLANO: That's what we'll get to.

THE COURT: I'll allow it in light of his examination.

Q Were you present at any time when anything was

done with reference to sales tax on Jolly Timmy?

A Yes.

Q Where were you?

A Over at Joe's house.

Q About when was that?

A Oh, couple of months later.

Q And who was there?

A Mary and Joe and me.

Q Who is Mary?

A Joe's wife.

Q And Joe Bonacorso?

A Yes.

Q What did you see happen there?

A Mary made out a check for the sales tax and had Jolly Timmy's name on it and everything on it because we were right there, and then we went and mailed it.

Q Who is we?

A Me and Joe.

Q And that was the sales tax on Jolly Timmy?

A Right.

Q Now, the $4,000 that you gave Joe Bonacorso, was that a portion of the $30,000 that your father had sent you here with?

A Yes.

Q Did this fellow Forrest Gerry, ever have anything to do with this horse?

A No.

Q Were you at the barn by and large, every day from the time that the Jolly Timmy horse got to Joe Bonacorso's barn?

A Yes, sir.

Q For how long a period of time, from the time that Jolly Timmy got there?

A For sure, 5, 6 weeks every day.

Q For the course of those 5, 6, weeks, did you ever see Forrest Gerry at that barn or in that area, or did you see him at any conversation either with Joe Bonacorso, Mary Bonacorso or even with you?

A No.

Q Do you know Forrest Gerry when you see him?

A Yes.

Q When is the last time you saw him?

A He was in the courtroom a couple of hours ., right here.

MR. CASTELLANO: I have no further questions.

CROSS EXAMINATION

BY MR. MEYERSON:

Q It's your testimony then that you do not know

the previous owners of this horse, Schweitzer or Rubin?

A No.

MR. CASTELLANO: Objection, it's a matter of evidence.

THE COURT: You said he didn't know.

Q How long did you work for Joe Bonacorso?

A I worked with him all that January and I think a week or two in December, up to the purchase of Jolly Timmy, and then after that.

(continued on the next page.)

Q And you never met Steven Rubin?

A No, sir.

Q Did you know Steven Rubin was a fellow trainer right on the same track that you were working?

A No, I didn't know Steve Rubin. I don't know the name at all.

Q Then you were not there when anyone actually handed over the money for the horse Jolly Timmy; is that correct? In purchasing it?

A No, I wasn't.

Q And you were not there when anyone negotiated for the horse? You don't know the terms of the sale by your own personal knowledge, do you?

Were you there when anybody actually bickered for price?

A We knew the price. It was $4,000.

THE COURT: Strike it out.

Were you present when the terms for the sale of the horse were negotiated?

What kind of education do you have?

THE WITNESS: Freshman, college.

THE COURT: What college did you go to?

THE WITNESS: Indiana.

THE COURT: You don't understand the question;

Were you present when negotations were had for the purchase of the horse?

THE WITNESS: No, I don't know.

Q (continuing) So you don't know if the previous owners actually received $4,000 or $2,000 or $3500; do you?

A They received $4,000.

MR. MEYERSON: Your Honor --

THE COURT: Strike it.

Were you present when the money was delivered?

THE WITNESS: No.

THE COURT: You don't know ofyour own knowledge?

THE WITNESS: Right.

THE COURT: Disregard it. He doesn't know of his own knowledge.

Q You handed Joseph Bonacorso $4,000; is that right?

A Yes.

Q And hypothatically, sir, if the previous owners only received $3500, then Mr. Bonacorso did something with that other $500 that you know nothing about; is that right? Do you follow my question?

A Yes.

Q Can I have an answer?

A All I know, I gave Joe --

Q Please answer the question.

A Repeat the question, please.

Q Assume that the previous owners only received 3500 dollars. If you gave, according to your testimony, Mr. Bonacorso $4,000, then Mr.Bonacorso would have had to do something with that $500 thatyou know nothing about; is that correct?

A Yes.

Q And you would not be aware that there was anything else besides money involved in the transaction such as another horse from New Zealand?

A No.

MR. CASTELLANO: I object. I don't believe that's part of the situation here.

THE COURT: The objection is overruled.

MR. CASTELLANO: Exception, please.

Q Did you, during the period that you were there, did you ever see Forrest Garry and Joseph Bonacorso together?

A No.

Q You would have no knowledge if they met outside your presence?

MR. CASTELLANO: Object to the form of the

question.

Q Did you have any knowledge if they met outside your presence?

A I've been on the grandstand when I've seen both of them in the grandstand. I don't know if they saw one another.

Q They were sitting at the same table many times?

MR. CASTELLANO: I object to the form of the question.

THE COURT: It's cross examination. Overruled.

MR. CASTELLANO: Exception.

THE COURT: Go ahead.

Q Are you aware that Mr. Bonacorso in his Grand Jury testimony, admitted that they met together in the grandstand?

MR. CASTELLANO: I object to the form of the question.

THE COURT: Overruled.

Are you aware of that?

THE WITNESS: Not necessarily. I don't recall it.

Q Have you ever discussed your testimony with anyone before coming in here?

A Yes.

Q With who?

A Mr. Castellano.

Q How many times did you meet him?

A Once.

Q Did you make any note of what you were supposed to say?

A No.

Q Do you remember it all by yourself?

A Yes, sir.

Q Did you talk it over with Mr.Bonacorso?

A We talked about the trial.

Q And did you talk about what your testimony would be?

A No.

Q You didn't? Who asked you to come to testify?

A Joe Bonacorso.

Q And you didn't talk about what you would say?

A We talked about the trial.

Q Did -- You did talk about it, you were lying when you said--

MR. CASTELLANO: I object to the characterization of lying.

THE COURT: Sustained.

Q What exactly did you talk about?

A We talked about it.

Q In general, but not about your testimony?

A No.

Q Now, again, did you see Mr. Bonacorso in the grandstand?

A Yes.

Q And did you see Forrest Gerry in the grandstand?

A Yes.

Q Were they in fact, sitting at the same table many times?

A Not that I saw.

Q Did they go over and speak to each other man times?

A Not that I saw.

Q You would have no knowledge then, if Mr. Gerry and Bonacorso talked or what orders Mr. Gerry gave Mr. Bonacorso, or whether, in fact, he gave him any money to use to pay any taxes or anything else; is that correct?

MR. CASTELLANO: I object to all of that, if your Honor please.

THE COURT: The jury will disregard the

question. He can ask questions that are leading and suggestive and all the rest. It's no reason that he can't ask the question. The jury is not to take any assertion in the question itself.

MR. CASTELLANO: I just want my objection on the record in its entirety.

THE COURT: You are overrulad.

MR. CASTELLANO: May I finish the objection so at least the record is clear? If I may, I will finish it, if not, I will sit down.

THE COURT: Go ahead.

MR. CASTELLANO: I say to your Honor, that he's implying to this jury by his questions, that he believes the truthfulness of the question that he's asking. Therefore, I object to it in its form and I object to the implications that Mr. Meyerson is making in the questions .

THE COURT: Regardless of what Mr. Meyerson believes may be, that's not going to be the determining factor for this jury. They will make up their own minds on the truth or falsity of what testimony comes from the witness stand.

MR. MEYERSON: May we have further objection at the side bar so there aren't --

THE COURT: Now stop it both of you. Ask your next question.

MR. MEYERSON: Was that objection --

THE COURT: It was overruled.

Q (Mr. Meyerson continuing) Do you have any knowledge whether Mr. Gerry and Mr. Bonacorso met outside your presence?

A No.

Q Do you have any knowledge whether Mr. Gerry might have given orders to Mr.Bonacorso regarding this horse?

A No.

Q Do you have any knowledge whether Mr. Gerry paid Mr. Bonacorso any money to actually use for this horse and not your own money?

A No.

MR. MEYERSON: I have no further questions.

MR. CASTELLANO: I have none.

THE COURT: You are excused.

MR. MEYERSON: Side bar?

(Whereupon a side bar conference was had.)

MR. CASTELLANO: I'm going to rest. I wish to say on the record, although Mr. Meyerson may find it funny --

ment, is represented by the U. S. Attorney's office.

MR. CASTELLANO: And Mr. Meyerson, who has said a couple of times during this trial that he represents the United States Government, but actually, under our system of law, this is an adversary proceeding. It's one lawyer against the other lawyer. We each seek to bring to your attention, through the evidence, and through the argument and discussion, whatever we can say to the interest of our side of the offense.

Again I say to you, if I have said anything about the evidence that's not exactly to your recollection, it's your judgment that counts, and I wish to say only one more thing; that those of you that after hearing all of Mr. Meyerson's argument, and all of Judge Platt's law on the entire case, all of you that do have a reasonable doubt in their mind, please hold it, discuss it, seek to convince your fellow jurors that they, too, should have a reasonable doubt on whatever points of the evidence that you recall, so that the verdict in this case will be one of acquittal.

Thank you.

MR. MEYERSON: Your Honor, Mr. Castellano, Mr. Bonacorso, Mr. Foreman, Ladies and Gentlemen of the Jury:

There was one thing that struck very immediately when Mr. Castellano spoke, he points to Rubin's testimony, and he said in answer to the question: "What is it for the benefit of both of us mean to you," and Mr. Castellano read it. He wanted you to believe that both of us would not have any link to Gerry, that was the story that they should stick to, that would be to the benefit of both of us. And what happened, Mr. Rubin, he testified. He thought that there was something wrong in him dealing, in selling a horse to Mr. Gerry, hires an attorney, testifies that there is a meeting, testi-- fies that there is a meeting with me, representing the Government; testifies that I told his lawyer and himself that the Government sees nothing wrong in him selling a horse to Mr. Gerry.

And it comes into the Grand Jury, never having lied to the Grand Jury, but he comes into the Grand Jury now, and he tells us the story. The same story that he told you today, with mistakes, that the Government is not going to claim there aren't mistakes in there. What does Mr. Bonacorso do? Mr. Bonacorso says in essence, No link to Gerry, too, not knowing that whether Rubin was in the Grand Jury or not, or what he might have said.

Now, one of the things of perjury here is that

no doubt, who was the hidden owner of the horse Jolly Timmy, but, Ladies and Gentlemen, no matter how much Mr. Castellano focusses on that, that is a small part of the Government's case. Mr. Castellano read to you the whole indictment, all the statements asked, and he gives explanations, goes into big explanations of dealing with Steve Rubin, and what that might mean, but what is the explanation? What possible explanation could there be for the answer to the question?

And he was referring to Forrest Gerry -- "And he was never your Agent in buying or selling any horses?

"Answer: No."

That is the primary lie that the Government seeks to prove. If the Government cannot prove to you beyond a reasonable doubt that there was a hidden ownership in Forrest Gerry, there is only one reason for that, because Mr. Bonacorso lied in the questions that were propounded to him to find out the details of who was the owner. Who dealt directly with the previous owners? Who was the Agent? There is only one of several alternatives. If he's not the hidden owner, then what was he doing, Forrest Gerry?

Well, if he's not the hidden owner, he was the agent for Bonacorso, but if he was, Bonacorso lied about

that. Is there any doubt in your mind, reasonable doubt, any doubt in your mind; there we have not only the testimony of Steve Rubin, but also Richard Schweitzer, they both sold the horse, one received a payment first, which was Schweitzer, a $1000, from who? Forrest Gerry. When you hand over money, if any of you asked me to hand over money to buy a horse from someone else, am I not your agent? Was the question even a business agent? Was the question even having to do with business? Suppose it was a favor, and there is no evidence here of what explanation there might be.

The questions and -- "Did you have any business dealings with him at all?" referring to Forrest Gerry -- "No, no, no." Stick to the story, stay away from Forrest Gerry. Those business deals with him.

"Answer: No."

And now he refers, after being called into the Grand Jury a number of times, speaking to the FBI, giving a deposition, all of this, and each time being asked, Give us all the details of your relationship with Forrest Gerry, give us all details of the purchase of the horse Jolly Timmy, and these Grand Jury minutes are all in evidence. I'll read a lot of it to you. It was not read during the direct case, but it was admitted in evi-

dence. I have a right to read it to you. I plead to you, if there is any doubt in your mind, please take these Grand Jury minutes in, see for yourself whether Mr. Gonacorso -- True, he came in, but was he evasive? Was he lying? Was he sticking to the story of no possible relationship with Forrest Gerry?

He goes back to something ten years ago when Forrest Gerry was a little boy and sold him a goat. "Any business deals with him?

"Answer: No, not that I can remember, of any type. The only business deal I ever had with Forrest Gerry is when I first met him many years ago, it must have been fifteen years ago. A young boy came to the track and was looking for a goat, and I sold him a goat for $10." And the testimony is in evidence, although it's not in the indictment -- That was Forrest Gerry. He goes back all that way to tell you a little incident because the Grand Jury is keeping after him, keeping after him. What is your relationship with Forrest Gerry? Where did you meet him? Where were the phone calls? What was the substance of the phone calls? And never once, never once does he ever tell you that it was actually Forrest Gerry who negotiated for the sale. Who gave the money to the previous owners. Was he try-

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ing to hide something from the Grand Jury? Was he lying when he said Gerry was never his agent in buying or selling any horse? Was he lying when he said there was never any business relationship?

Even if according to the interpretation Mr. Castellano wishes to give you, even if he only gave him the money to go purchase it for someone else, was he not his agent? Was he not having a business relationship with him? Mr. Castellano doesn't talk about that. He talks about who was the hidden owner.

I'll tell you what the Government hopes to prove with that. I'll get to that, and there were many things.

The Judge will instruct you that you only have to find that one lie was made, knowing it to be false, to find him Guilty on Count One, of perjury. This is not a question of which lie was told in different Counts. All the Grand Jury minutes are in one Count. If there is any lie, if you find any lie in there that you found the defendant to have made and to have made falsely, it is your duty to find him Guilty.

And just before I go on to the various lies -- Steven Rubin -- Steven Rubin is made out to be such an horrendous liar. Mr. Castellano asked him if Bonacorso ever said it was not his own horse, that it was Forrest

Gerry's. For God's sake, if the Government wanted him to lie, if we wanted him to lie, wouldn't he have made it as clear as day? Who else was there, just Bonacorso. He would have come to you outright, he would have come to you and said, "I'm the front for Forrest Gerry." And who's to say otherwise, if he was a man who would lie? Would he not have lied by saying, "Yes," he said that, or was he honest? Was he honest, and he said, No. Even though there was nothing to contradict.

Sure, he made mistakes. I ask any of you to think back of a transaction a year ago, and think back on dates, sequences. Instead of being up in Yonkers, or being in Roosevelt, he explained that on the stand. He said what he meant a few days afterwards. It was the registration papers that passed.

R2 fls

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/2pm

Meyerson-summation

MR. MEYERSON: (continuing) This whole thing about instead of being up in Yonkers or being at Roosevelt, he explained it on the stand. He said what he meant a few days afterwards. It was the registration papers that passed, and they passed at Yonkers, and a few months after -- only after a call from Connie Rogers, that he passes over the bill of sale.

When he said the bill of sale in the Grand Jury, it was a few days later. There was the mistake, a time sequence, he was getting them mixed up. The registration papers and the bill of sale and sure, he was nervous, wouldn't you have been nervous?

But if he was lying for any reason, and he's testified that "I never made any threat."

He testified that "I never threatened about perjury, that all I said was, you are not in any trouble for doing this. You are not in any trouble for selling a horse to Forrest Gerry. There is nothing wrong in this."

If the Government wanted a lie -- if he wanted to lie -- several statements, why not stick to the first? Does it really matter when the bill

of sale was given over; whether it was the registration papers he made mistakes once, why not stick to that first statement, who is going to know?

Mr. Castellano would then have nothing to cross examine about. But I submit this, that as inference can be drawn, that the truth was sought; that every time the prosecutor and the witness sat down, the truth was sought. Let's get the true story down, tell it as it is, the jury will understand, that it's human frailty of the mind, that there is nothing material about these mistakes, but simply dates and time sequences. A human mistake -- would you like to be on that stand, held to date and time sequences? If you tell the same story that Rubin did and you found him disbelievable because of the mixup of dates that you gave on that stand, how would you feel?

Steven Rubin comes in with great effort because obviously, he wanted to stay as far away from Forrest Gerry. Is he going to be popular at the track for testifying against a fellow driver?

He comes in here and tells us to the best extent that he can, not making up stories, not saying, "Yes, he told me exactly he was fronting,"

but trying to search out the memory, the little innuendos. He even backed up on direct examination, he said yes, keep to the story, and if you remember Mr. Castellano examined him about the word, and he said, why shouldn't he -- he said, "Yes, those are his exact words."

Did you see the pain in his face? He was trying to think back. I can't say for sure those were the exact words, maybe the substance. I can't say for sure.

Was that a man who was trying to tell you the truth?

This is not a man like Mr. Lentsch, the younger Mr. Lentsch, who is in college, and if you saw that story this morning, 5, 6, 7 times was asked the same question, and admonished by the Judge by exactly what the question meant, and he still kept getting it confused.

But is Mr. Rubin a man who is honestly trying to do his best? This is not a case against Rubin against Bonacorso. It's a case against Rubin and Schweitzer, who said they don't directly respond to Gerry because here it is, it says here, what about the fifth horse? I don't want to hold

any money. The fifth horse -- I -- not I gave money to so and so. I bought outright and I believe I remember the name of the people was Steve Rubin. I think he had a partner, but I dealt with Steve because he was a trainer so on and so forth.

That is hysterical. They were on the same track, Steve Rubin, Joe Bonacorso. He says I dealt with Steve because he was a trainer.

Well, why would Forrest Gerry deal with Steve? Because he's a trainer? Why would he go to either one?

He's trying to give an impression. Was he trying to give the impression that Forrest Gerry was doing anything for him? He's trying to give the impression I dealt with Steve because he was a trainer.

Why?

Because he was a trainer.

Naturally, the implication he was a fellow trainer, we could talk on better terms, we understood one another. We were both -- his words, manure shovels. That's why I dealt with Steve. If the other side of the coin is true, the story that Mr. Castellano wants you to believe, why would

he say, I dealt with Steve, because he's a trainer, and then send Forrest Gerry to do anything? If Forrest Gerry did do something? Is he an agent?

"You dealt with him" -- meaning Rubin -- "You dealt with him directly?"

"Answer: Yes. "

Now, how could anyone misunderstand what the Grand Jury wanted? If I say to you, you bought a horse, you bought a car, talking about the people who sold it-- if you bought a car from some car company, from a used car salesman -- we talk about used car salesman, the other used car salesman -- I dealt with him directly.

And was that not lying to the Grand Jury by not telling the Grand Jury about Forrst Gerry being used? How could anyone, even with the intelligence of Mr. Lynch, not know --does he mean he dealt directly because he gave money to someone else to pay someone else?

If I had a conversation with my boss before I came to you to give a summation and he told me exactly tha words to tell you, am I dealing directly with you or is my boss? Are you dealing directly with me or are you dealing with my boss?

You are dealing with my boss. What is his name? Who is this man you are dealing with directly? That is absurd. How did you pay? With cash or check? No cash.

It doesn't say anything about Forrest Gerry. This is after being in the Grand Jury 5, 6 times. And it was in February sometime, I don't know the exact date -- how many times did you deal with him, just that one time -- and who is this Mr. Rubin -- just one time, yes.

And this is for the horse Jolly Timmy -- one time.

Well, you heard right there, here's another lie you could find.

How many times -- twice -- was paid twice in two installments.

(continued on next page.)

MR. MEYERSON: (continuing) And it was not $4,000. They only received 3,500. What happened to that other 500?

Let us assume, giving the greatest benefit of the doubt, that you believed the Lentsches.

Well, then, you have only one thing to believe, either Bonacorso rooked them out of all 4,000, or he only rooked them out of 500.

But sure rooked them.

Are the Lentsches the type of people who could be befuddled? I ask you. It didn't take much, did it?

All they know is that they gave money. If you believe it, this is a story -- you all make salaries, you are all working people, you make 10, 12,000 dollars a year since 1970. Your business starts to go down to a couple of thousand less in the year that you decide to give 50,000 dollars from your house -- this is a man who says he has bank accounts, he has checking accounts, he has an accountant, yet this is the man who says, "I have 50,000 dollars in my home," which he gives with no collateral.

He says, "Well, I would take a lien on the

house."

A man who doesn't -- don't you have to tell the mortgage company if that house is going to be yours? He signs no papers.

But even if you assumed he gave him the money, he rooked them, because they did not say anything to contradict Mr. Rubin or Mr. Schweitzer, all they know is that they gave money. They were not there when there were negotiations, they were not there when money was handed over, they never met Mr. Rubin, never met Mr. Schweitzer, doesn't know who negotiated, couldn't tell whether Bonacorso asked Mr. Gerry to do something for him, or Mr. Gerry asked Mr. Bonacorso to do a favor for him, nothing -- so there is no contradiction there.

Now, again, all these questions were important for the Grand Jury to ask, because if you don't know who the negotiator is, if you think you are being estopped from really finding out who the owner is, you try to find out details, who negotiated, who purchased. Those details then become very important.

There is no question about the materiality, and in fact, it is stipulated to, so every question

is important. It isn't just the question that is important about who the hidden owner is, every one of these other answers,"I dealt with Steve because he was a trainer. Forrest Gerry was never my agent. Just that one time."

Even then, the testimony --

"Question: Doyou know if Forrest Gerry ever purchased horses under anyone else's ownership?

"Answer: No, I don't."

Well, if Forrest Gerry acted as his agent and purchased horses for him, wasn't he purchasing horses for Bonacorso under Bonacorso's ownership?

A direct lie, "No, I don't."

But that is the whole purpose of the cross examination, but he doesn't talk about it, he clouds the issue, focuses, "Who was the hidden owner?" It focuses on the hardest part of the case for the Government to prove. I don't care if we didn't prove it, he is still guilty of every other lie.

"Do you know if Forrest Gerry ever purchased horses under anyone else's ownership?

"No, I don't."

Not even under anyone else's, it was under

him.

"Was Forrest Gerry ever your agent? He was never your agent in buying and selling horses?

"No."

Never once does he give the details of Forrest Gerry.

Could this have been maybe one time? Let's dig into this, let's reason it out.

Maybe, well, if it was only one time and he went down and did him a favor, right, you would sort of forget, he may not be an agent, sort of -- maybe he forgot.

Well, a point Mr. Castellano does not even raise, but I will raise it for him.

There were the negotiations for the horse, right? So you have to find out about whether you want -- somebody has to ask, do you want to purchase a horse? Then you have to find out what is the horse all about, and there is no testimony that Bonacorso ever came to Rubin to look this horse over, yet he was a trainer. He was a trainer, and he never went out to look at this horse himself, never looked at it, never negotiated for it, never asked the details of the horse. He just relied

on Forrest Gerry's word, Forrest Gerry, convicted sports figure.

He had to come back, he had to say, "Give me the money," and he had to get the money.

Even suppose that he got the money from Lentsch, he would have had to negotiate, find out about the horse, he would have had to go get the money. He would get it, he comes back, that would be another time.

Okay, we are here, this is the money, go pay.

But it wasn't paid once, it was paid twice. It wasn't, oh, I'm going to be in the neighborhood, I'll pay you for the horse. You are going to buy this horse, I'll pay for it for you.

That wasn't it. The money was paid twice.

Where? Once at Yonkers in the parking lot at Yonkers, and the other time with Schweitzer, all the way into New York City at his office at midtown -- Forrest Gerry who was brokering horses at that time, who was at the tracks all the time, he goes.

So that isn't something that you could just forget about, this was an extensive business

relationship -- this is extensive dealings.

I ask you, I don't know if the Judge will allow me to read to you all the testimony, but please, I beg of you, read all the Grand Jury testimony.

Each time he was asked, "What is your connection with Forrest Gerry? Tell us all the times that you spoke with him. Where did you see him?"

He says, only in the grandstand. He says, in those Grand Jury appearances, "I only saw him in the grandstands. I was not close with him. No dealings with him."

He even remembers another time, after all this time, it comes in about three or four times, "I don't remember anything, nothing to do with Forrest," and he says, "Oh, yeah, yeah, there was that one time, it was at some motel, and he called me up and he says, 'Gee, I have a horse you might be interested in, a claimer.' And I came over there, but I didn't have enough money at the time, so I didn't take it."

That was his testimony. He tells you he goes back, 10 years ago, 15 years ago, a goat. He

tells you all this. What is his intent? It is his intent to go there and deceive us. It is his intent to tell you nothing about Forrest Gerry. He goes all the way back to tell you about a horse that Forrest Gerry called him up about, which he does not take, and does not tell you about the horse which he does take, and he doesn't tell you about the horse that he is being asked about every single time he comes into the Grand Jury.

There are 44 pages of Grand Jury testimony, where he is asked about the relationship and connections to Gerry, the details of the purchase of the horse Jolly Timmy -- who paid, who did this, who did that?

Not once does he ever mention Gerry.

"No," he says, "I dealt directly with Steve Rubin. Gerry was never my agent."

I will read you some testimony to show you the intent. He never tells anything about Forrest Gerry in connection with this horse. Why? Because he was sticking to the story which he did not know Rubin was not sticking to any more, which Mr. Castellano brings out to you and wants you to believe, makes it a big thing to read that part of the

transcript, "the benefit of both of us wasn't to lie about hidden ownership."

So he makes that point, "What was it?" Was it to lie about Gerry's relationship to him?

This was back in June 11, the first time Mr. Bonacorso was brought before the Grand Jury:

"Question: Now, do you know a man by the name of Forrest Gerry?

"Answer; Yes, I do.

"Question: Can you tell me in what connection you know him?

"Answer: Well, strictly as a horseman, you know, he used to be at the track. I used to see him at races whenever I went to the races.

"Question: Did you see him any other time outside of the racetrack?

"Answer: No.

"Question: You never saw him at any time outside of the racetrack, is that correct?

"Answer: Right."

MR. CASTELLANO: May I have a side bar, Judge?

THE COURT: Yes.

(Side bar.)

Meyerson-summation

(Side bar.)

MR. CASTELLANO: I didn't want to interrupt Mr. Meyerson here, but he has constantly been saying that if the defendant lied in the Grand Jury -- wherever he lied in the Grand Jury, it is that lie upon which you can base a conviction.

He now then says, there are 44 pages of Grand Jury testimony.

Now he is reading and saying to them, that he lied on his testimony of June 11th. There is no place in the indictment --

THE COURT: You are absolutely right.

MR. CASTELLANO: I was going to wait and hope that he didn't do it and then ask your Honor to admonish --

THE COURT: I will admonish the jury that their consideration of the perjury charge is limited to the appearances contained in the indictment.

MR. MEYERSON: I am only reading the Grand Jury minutes for the purpose of intent, to show that --

MR. CASTELLANO: He is saying that they are lies --

Meyerson-summation

MR. MEYERSON: I will explain it immediately.

MR. CASTELLANO: I would rather your Honor do it, if your Honor would be kind enough.

(In open court:)

THE COURT: Ladies and gentlemen of the jury:

I should admonish you at this point that the indictment which I will read to you in my charge, in full, contains certain statements that were made by the defendant on September 14th and December 19th.

In consideration of the charge against the defendant in this case, you may only consider those statements on the question of perjury. You may not consider any other statements on the charge in chief.

In the event that you find that there are some prior statements that were made to the Grand Jury, or contemporaneous statements made to the Grand Jury that you feel are established beyond a reasonable doubt, as false and untrue, then you may take those statements on the question of the defendant's intent only. You may not consider them as substantiating the charge itself, and the charge pertains to statements made on September

14th and December 19th, which were read to you at the outset of the trial, and which will be read to you at the conclusion.

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BS:GA
T3R2 PM

MR. MEYERSON: (continuing) Ladies and Gentlemen of the Jury, if you have any other impression other than what the Judge just said, I am very sorry. I am reading to you the Grand Jury minutes, and I am taking from my own notes, because it is more concise, and so even in those there may be a word or two, or something different. Please read the Grand Jury minutes for yourself.

My point is this, I am reading them to you to show the intent of Joseph Bonacorso in never mentioning Forrest Gerry's relationship to this horse, despite innumerable times that he was asked, innumerable.

It then makes the statements on the Indictment, which the Judge will read to you, and which I just read to you, and perhaps I'd better read again, just those portions which are the lies.

What are the lies? "The fifth horse . . ." -- which he says is Jolly Timmy -- "The fifth horse I bought outright." Not Forrest Gerry -- "I bought outright. And I believe the name of the people was Rubin, Steve Rubin. I think he had a partner." He certainly didn't deal with that partner, did he? "I think he had a partner, but I dealt with Steve because he is a trainer, and so on and so forth." One lie. "I dealt with Steve because he was a trainer." Or two lies, "I deal with Steve."

Forrest Gerry dealt with Steve. "Because he was a trainer." If he is dealing with Steve as a trainer, why use Forrest Gerry at all? Don't say that's a lie, just say it is the background. One lie.

"I got a bill of sale for him." All right, he did. The bill of sale passed. When did it pass? Only as a result of Connie Rogers calling him, only at the time the Superfecta was being investigated, and only as a result of that conversation did he run quick to meet with Joe Bonacorso and pass the bill of sale made out to whoever Bonacorso says.

Of course, how would he know to go to Bonacorsa with the bill of sale because Bonacorso had never said he was the owner when he came to pick up the horse? Gerry had never made any statement that Bonacorso was the owner. As far as he knew, Gerry was the owner, so someone would have to tell him that Bonacorso was changed, it's really Bonacorso's, and so they used this opportunity to meet with Connie Rogers, so the inference can be drawn, she calling -- Rubin knew it was his girl friend, Gerry's girl friend calling for Gerry, "Give it to Bonacorso." So much later the bill of sale passed to Bonacorso with whatever Bonacorso wants to put in there.

"I got a bill of sale from him for the amount

that I purchased the horse for, for the amount that I purchased the horse for."

Second lie, because it wasn't for the amount he purchased the -- He didn't get the sale for him for the amount that he purchased the horse for, because he got a bill of sale for the amount of $4,000, and yet the purchase price is only 3500. Second lie.

"We paid the City Sales Tax and Tax People for the amount of the horse." Naturally, don't forget the whole purpose of this was to let the U.S.T.A. and everyone else in the world think that Bonacorso was the owner. So naturally Bonacorso would have to make out the check and pay the City Sales Tax.

There is no evidence in here that Forrest Gerry did not give him the money for that, only Lentsch's testimony about writing the check.

Naturally, did you ever see a papier-mache of a film studio, when you see, you know, you take a scene, and the movie cameras only see this, you think it's real -- Gone with the Wind, there it is, Atlanta, Georgia, in all its glory. What do you know, you burn the papier-mache down, and there is nothing left. That is exactly what is here. It is made to look real, it is made to look to anyone outside that way.

Sure, all the papers in the sale, you know, have Bonacorso listed as the name. Sure, you know, they pay the City Sales Tax, and sure, they are going to tell the people working with them, especially -- Would he let Lentsch into his confidence?

For those people, for the outside world, the papier-mache, Bonacorso is the owner. But look underneath, that is the issue, not who the paper is made out to.

"You dealt with him directly?

"Yes, directly."

But dealt with him directly. That is lie number three.

"Question: How did you pay, cash or check?

"Answer: No, cash."

Paid in cash. Forrest Gerry paid him in cash. Four.

"Question: How many times did you deal with him?

"Answer: Just that one time.

"Question: Who was this?

"Answer: Mr. Rubin.

"Question: Just that one time?

"Answer: Yes."

Five.

Do you believe Rubin and Schweitzer are lying? Schweitzer is an attorney who comes in here, no talk about pressure on him. Do you think he would lie for some unknown reason that could be not explained to you? Would an attorney give up his license? For what purpose? What would be his motive? That is five.

"Question: I would like to go over now your testimony with Forrest Gerry. Did you ever have any business dealings with him?

"Answer: No, no, no business dealings with him that I can remember. No, not that I can remember of any type." And he talked about the young goat. Six, "No business dealings with him at any time."

"Question: And he was never your Agent in buying and selling any horses?

"Answer: No." Again, if he wasn't the hidden owner, he wasn't the agent for him. What other inference is there, what other argument? He was either one or the other. Up to seven.

Go back to the September 14, which is in issue before you:

"Question: Are any horses which you now own or driven really owned by Forrest Gerry?

"Answer: No, sir." The Government says eight.

We hope we've proved it to you, but if we didn't, we still have seven.

"Question: Do you know if Forrest Gerry ever purchased horses under anyone else's ownership?

"Answer: No, I don't." If he wasn't the hidden owner, and he went for the money, and even if he wasn't his agent, wasn't he purchasing the horses for him under Bonacorso's ownership? Nine. Maybe one we couldn't prove to you, I submit we did, but nine lies.

Find one of these, not of anything I am going to read in the Grand Jury again, but I am only going to read this Grand Jury testimony to show you the intent, to show you that every single time he was asked about it, time and time again, all relationships, all connections with Forrest Gerry, "Tell us all details of Jolly Timmy."

My obligation is to see that justice is done according to the Government's view, just like Mr. Castellano's is with the defendant's. Please bear with me.

Now, the June 11 Grand Jury again:

"Question: Do you know a man by the name of Forrest Gerry? Can you tell me in what connection you know him?" And all he says is, "Well, strictly as a horseman. You know, he used to be at the track. I used

to see him at races whenever I went to the races." That's all he said, that's in the question, "Can you tell me what connections." That's in the same Grand Jury that asks him about, Give us all the details of the purchase of Jolly Timmy, where he knows that we are looking, that we suspect, that we suspect something is fishy about Jolly Timmy, and he never talks about Forrest Gerry's relationship to that horse.

Is that intent enough for you? Because, Ladies and Gentlemen, I submit this to you, that if he was lying about who dealt directly, and about Forrest Gerry never being the agent, and about Forrest Gerry never purchasing any horses under anyone else's ownership, meaning the defendant's, if he was lying to you about all that, I submit it is circumstantial evidence -- bear with me if you can, please -- circumstantial evidence of the fact of a guilty frame of mind. Why? He is making a false statement to thrown the Grand Jury off the track, a false exculpatory statement --

MR. CASTELLANO: Judge, may I approach the bench again? I have to make an objection.

THE COURT: You are bordering on a question of law.

(Side bar.)

MR. CASTELLANO: He is persisting in this. You must take it together with the fact that he says, "I don't care, he's still guilty for every other lie." If he is still saying, though your Honor explained that he wants to say it is only to show intent, he is signifying that these are lies, and if they are lies, then they are lies just like what he is charged with in the indictment, then he would have been indicted on them.

MR. MEYERSON: I couldn't have been more clear.

THE COURT: He can't designate them as lies. He can say that the jury can find if they are correct or false, and they can deal with them on the question of intent.

MR. CASTELLANO: You have to advise this jury that what he is saying is wrong. He can't designate them as lies, and that's what he continues to do.

MR. MEYERSON: I am not doing that, your Honor. They can be indicated as false exculpatory statements that can --

THE COURT: He is right. They cannot use them -- They can only use that which is charged in the indictment for that purpose. They can't --

MR. CASTELLANO: He can't designate them on summation as lies. I ask you to read, if your Honor has

any doubt about it -- I think your Honor recalls it, but that is exactly what he says.

THE COURT: I will sustain the objection at this point on that ground.

(Open court.)

THE COURT: I will sustain the objection on this last point, and to the extent that the prosecutor has referred to exculpatory statements and the use for which they may be put, you just disregard it.

R3 fls

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MR. MEYERSON: May we approach the side bar?

THE COURT: No. Proceed with your summation.

MR. MEYERSON: Again, all these questions are solely on the intent, not necessarily on the falsity. But if they are false, then it shows his intent in the other questions, all the nine lies which the Government says are there.

On June 11 he is further questioned:

"Question: Did you ever speak to Forrest Gerry on the phone?

"Answer: Yes.

"Question: About the same time that Miss Rogers had called?

"Answer: Evidentally he was with her, you know, at the time. I asked him about some -- if there were any good claims around, horses, whether they were good claims or bad claims." He talked about opinions of horses in all of this Grand Jury testimony, that's all he talked to Forrest Gerry for, just opinions. Again, never tells us about any connection Forrest Gerry today, so as to negate those nine lies.

On the 14th Grand Jury, now he is again questioned:

"I know you have been here before, but again, could you please restate your relationship with Forrest

Gerry, especially since January of this year." This is September 14, 1973. "Since January of this year?" January of 1973. We all know from the evidence the sale was in February of 1973, trying to focus in, and I won't read it to you, and he goes on for the next eight pages to tell about meeting him in the grandstand, opinions of horses, that's all.

"Question: Do you remember what was discussed at these?

"Answer: Just horses and his evaluation of some of the horses that were racing, and whether they would be good claims, or things of that sort." Here is where he mentions, he first mentions now that meeting I mentioned before in the Raceway Motel with Forrest Gerry, where he calls him, asks him if he is interested in buying some horses. He says No, he doesn't have any money, and he leaves.

From page 11 on in the Grand Jury testimony, there are only questions about the details of the purchase, who did he get the money from, how did he convert it, was it cash, who did you go to, details of the purchase. But he never once mentions Forrest Gerry.

Now he is brought in with the deposition. Now he has an attorney from Mr. Castellano's office who is

there with him, and an FBI Agent, myself, and there is a Reporter. Now it is taken down.

Now he has an attorney right there, an unusual privilege. A Grand Jury -- By law, an attorney is not allowed in the Grand Jury. Here we have a deposition taken where his attorney is being present, and it is these which he is going to adopt in the Grand Jury the next day. He goes home that night, and the inference is he can talk to his lawyer afterwards, he comes back the next day, and still adopts these statements as his own, and it is all those statements, all seven of the nine statements are from the deposition. It is this deposition where again he has a lawyer there, Mr. Pollina, from Mr. Castellano's office, to advise him on any ambiguities, so as to make it clear to the Grand Jury what exactly he wants to get across.

He says the circumstances of the purchase, from page 4 on through page 7 in the deposition -- On page 3 he realizes he has the right to remain silent, he is represented by an attorney, and he wishes to answer questions.

Page 4, the first thing I would like to go over is, You received some money from Mr. Lentsch, is that correct? Then it goes on for three pages telling us the

details of receiving the money and of buying the horse. Not one mention of Forrest Gerry.

Then on page 7: "Answer: I didn't want to hold any money. The fifth horse I bought outright, and I believe I remember the name of the people was Rubin, Steve Rubin.

"Question: And anybody else?

"Answer: I think he had a partner, but I dealt with Steve." This is the testimony the Government says is false. With a lawyer there so that he can give him advice on any ambiguity, so that he made sure to get his point directly, explicitly to the Grand Jury: "I think he had a partner, but I dealt with Steve because he was a trainer." No mention of Forrest Gerry. Is that a lie, or isn't it?

"You dealt with him directly?

"Answer: I dealt with him directly . . ." -- I am reading you the same thing which I read three times already, which the Judge will read again.

"Question: You dealt with him directly?

"Answer: Yes.

"Question: How did you pay him?" And so forth and so on.

"Question: How many times did you deal with him?

"Answer: Just that one time.

"Question: With who was this?

"Answer: Mr. Rubin.

"Question: Just that one time?

"Answer: Yes.

"Question: And this is for the horse Jolly Timmy, make no mistake; is that correct?

"Answer: Right."

Right afterwards, so that there can be no doubt, there can be no doubt as to Mr. Bonacorso's intent to know what we were looking for, right after, we talk about how he purchased the horse Jolly Timmy, I then asked him about Forrest Gerry.

"Question: I would like to go over now your testimony concerning Forrest Gerry."

It is not even disconnected, but each time he comes in, specifically those two times, and yet he tells us about the goat ten or fifteen years ago, he tells us about some other meeting, never tells us that Forrest Gerry was his agent, that Forrest Gerry bought horses for him.

This is even according to the cross-examination, and again, from these inferences, the fact that he is lying about this, I submit, you can find intent, intent

to deceive the Grand Jury, and intent sufficient for you to find that Joe Bonacorso was not the owner, and that Forrest Gerry was.

THE COURT: Ladies and Gentlemen of the Jury, I should caution you perhaps again, when the Government says that the fact is he is lying, that is a question for you to determine. You must remember that statements of counsel are not evidence, and I have said this to you many times, and I will say it to you again before the case is over, the Government's characterization, the Government's interpretation, is not, of course, binding on you.

MR. MEYERSON: Thank you.

On the issue of intent: "On July 11 I asked you, 'Do you know a man by the name of Forrest Gerry?' and you said, 'Yes, I do.' I ask, Can you tell me what connection you do know him?

"Answer: Well, strictly . . ." -- This is all my questioning, I am reading him his previous deposition. "Well, strictly as a horseman, you know, he used to be at the track. I used to see him at the races whenever I went to the races.

"Question: Did you see him any other times outside of the racetrack?

"Answer: No.

"Question: Never saw him at any time outside of the racetrack, is that correct?

"Answer: Right."

And now I finish reading, now I ask, "Is that true?

"Answer: I'm pretty sure it is. I don't remember seeing him any other time."

What can you do, is the intent any clearer?

"Question: So you only met him at the racetrack?

"Answer: At the racetrack, right.

"Question: Did you ever have any business dealings with him at all?" How broad can a question be?

"Answer: No, no.

"Question: No business dealings with him?

"Answer: No, not that I can remember of any type. The only business dealing I had with Forrest Gerry is when I first met him many years ago. It might have been fifteen years or better, a young boy came to the track, was looking for a goat. I sold him a goat for ten dollars.

"Question: That was Forrest Gerry?

"Answer; That was Forrest Gerry. That was the first time I met him. Somebody sent him over to me,

which I had for a horse that was mean and needed some company, so I had the goat. I got rid of the horse, and so I sold the goat to him." He tells us all about that, but never about Forrest Gerry.

I asked him some questions about speaking to Mr. Gerry over the phone. "Can you tell us when you have spoken to him over the phone?

"Answer: I don't remember exactly the date on it, you know, because I had to get phone calls. I'm not trying to conceal anything, it's just that my memory is bad in the situation.

"Question: Well, I would be more concerned with the substance of the conversation, rather than the exact day." The Government isn't trying to trip him up.

Mr. Castellano's cross-examination about dates -- I won't say anything about that on dates. "Well, any conversations I had with Mr. Gerry was in reference to horses, the caliber of horse, the ability of the horse would be -- whether it would be a good claim, would he be worth buying, how did he race, is he sound, according to his knowledge. He seemed to know everything about every horse. You could see, interrogate him about every particular horse, and he would be able to tell you a story on this particular horse.

"Question: I think I understand.

"Answer: How he compiles information, I'll never know.

"Question: Let me see if this is an accurate summary, you did have phone conversations with him at various times, and the nature of these conversations would be in asking his opinion?

"Answer: Right.

"Question: About a particular horse?

"Answer: Right.

"Question: In other words, but you did not have any business dealings with him?

"Answer: Absolutely none at all."

Could I have been any more specific? Could he have been any more specific in denying any relationship whatsoever with Forrest Gerry?

Again, Ladies and Gentlemen, anything else that I read besides what I read to you about those nine lies is only on the intent, the intent of Joseph Bonacorso not to have anything to do with Forrest Gerry, to lie about that relationship, not to let the Grand Jury know anything he had to do with Forrest Gerry; the fact that Forrest Gerry was his agent onthat horse, the fact that he had business dealings with him, the fact that he

might have bought the horse for him; or, in the alternative, the fact that actually Forrest Gerry was indeed the hidden owner.

"He was never your agent in buying and selling any horses?

"No." Clear as could be. It goes on a little more, and I know there is a question in here where -- right before he left -- he talks about the incident at the Raceway Motel, but he says, "I didn't buy that horse." He tells us about a time he did not buy the horse, about a claim. He calls him over to the Roosevelt Motel, he meets him, but he says, "I didn't have the money then." So he tells us about the incident. After all these details, he never tells us about the details of this one.

There is a question in here about telling us -- if he wishes to make any other statement -- I can't find it in here right now, but you ladies and gentlemen can look at it, you can examine it for yourself.

The question was asked, Was there anything else, any other statement that you wish to make, and he made another statement where he does not mention Forrest Gerry.

The intent, what was the intent? The intent was

to deceive the Grand Jury and not let them know that Forrest Gerry was either the hidden owner or the agent.

LeG fls

(continued on next page.)

A very important point as to who is the real hidden owner. Never cross-examined to this point, your recollection will govern; but at the time of the handing over of the registration papers, Rubin said that he gave the papers to Bonacorso and he said these are for Forrest Gerry, give them to him, and Bonocorso said that he would do so. Is there any clear evidence that you could want outside of them announcing to the world that they are the hidden owners, but if the registration papers were being taken by Bonacorso to give over to Gerry, why would Gerry need it unless he was the hidden owner? For what purpose would it be intended for? Only the fact that he was the hidden owner, it is circumstantial evidence. I can't give you evidence -- I'm the owner, blinking neon lights.

How often do you think the Government could convict anyone if they had to give to you a blinking red light, but I submit just like you could say if a man comes in from the outside with a red umbrella and it was dripping, even though you didn't see out the window, you could infer circumstantially that it was raining outside. If the registration papers which are for the owner are given to Bonacorso for Gerry,

who is the owner? What clear indication do you want?

Another one, Bonacorso, bill of sale, it's only made out after Connie Rogers calls him. I asked for this to be read back to you. Remember the page 137. It starts, they were starting to investigate and investigation.

"Question: Who did you get a call from?

"Answer: I got a call from Connie Rogers at that time.

"Question: As a result of this conversation did you do anything with reference to a bill of sale?

"Answer: Yes.

"Question: What did you do?

"Answer: Gave the bill of sale to Joe Bonacorso the next day.

"Question: As a result of the conversation with Connie Rogers?

"Answer: Yes."

And this is the time only after this call, after the Superfecta investigation starts that they meet at Roosevelt Raceway, makes out the bill of sale and -- "Well, we both drove to in front of the racing secretary's office and at that time he gave me a blank piece of paper and I wrote out a bill of sale for his

wife, and I was told by him, anybody ask, the horse belonged to him. He bought the horse.

"THE COURT: You were told by who?

"THE WITNESS: Joe.

"THE COURT: He said if anybody asks what?

"THE WITNESS: Yes sir, it was his horse. If anybody investigates or if anybody investigates me it was his horse.

"Question: This is the time you gave him the bill of sale?

"Answer: Yes."

Would he have said that if it was really his horse? Even if he didn't trust him, don't forget just like he never said -- according to Rubin's testimony, just like he never said the horse is not mine, I'm really fronting for Forrest Gerry which admittedly he did not say, but he never said the horse is not mine. So if he's telling Steve Rubin to stick to a story, what story could this be because how would Steve Rubin know any story. As far as Rubin was concerned he just sold a horse to Forrest Gerry. I mean it could be a thousand and one people who could be the hidden owners, how would he know. Well, Bonacorso tells him the story to stick to and at Page 140 "It would be better for the

both of us I said he bought the horse. He being who the Court asked.

"THE WITNESS: The horse was his wife's if anybody investigated."

And other circumstantial evidence came out of the rain with the drops and it was raining because if he wanted to say -- just say tell the truth, he never said tell the truth, -- for the benefit of both of us I bought the horse, so he didn't even know who bought it. Rubin he had to be told and that was the story they would stick to as well as no one having anything to do with Forrest Gerry. So that was said and it was repeated another time a couple of weeks later. So there are your two obstructions of justice. I'll concede this. If you find you can't find beyond a reasonable doubt that this was Forrest Gerry's horse, which I believe from all the circumstantial evidence you can find, if you don't find that --

THE COURT: He said I believe, disregard it.

MR. MEYERSON: I'm sorry. If you do not find that beyond a reasonable doubt and find it could be Bonacorso's hos horse, well, then, I submit you would be very hard pressed to find him guilty of obstruction of justice for stating it would be better off for both of us if

you said the horse was his. My point is, he wouldn't have said it if he wasn't telling him the story -- for the benefit of both of us -- and was telling him what story to say. He was never telling him to tell the truth as you know it, but again even then, I submit that we have proved all of that hidden ownership circumstantial evidence and obstruction of justice twice.

I have read to you from the indictment. I don't want to get you confused -- not any of the Grand Jury testimony I read to you, which I read to you solely for the intent to show that Gerry was never going to tell us anything. But by the testimony I read to you directly -- never his agent. Do you know if Forrest Garry ever purchased horses? According to their version of the story it was Bonacorso's horse. The nine lies that I pointed out to you. I submit you should find him guilty on all three counts. I submit in the alternative if you don't find the hidden ownership part, that you find guilty in Count 1 of perjury for any one of the other eight lies that I mentioned Bonacorso said these things. He knew them to be false. His story was to stay away from Forrest Gerry. That was the story he was sticking to and his intent

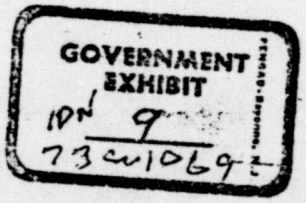
to show four or five times that -- three or four times Grand Jury testimony, and the depositions with his counsel there that despite any questions of giving us your relationship, all connections to Forrest Gerry, he never told us about this one. Thank you. I'm sorry I took so long. I just wish to leave you with one thought. You owe a duty, what you swore was your oath on the jury to decide this question on the evidence, not in speculations, not on any hesitancy to find anyone guilty which is a very difficult job.

In my opening statement I said that I would prove to you beyond a reasonable doubt that Bonacorso tried to hide their connection to Forrest Gerry, I submit I've done this. It was my word to you, I've kept it. Deliberate on the evidence. I submit when you come back conviction just on one count or on all three, that convictions are the correct choice under the evidence that was presented to you. Thank you very much.

THE COURT: Ladies and gentlemen, you have been very attentive, I apologize for not giving you an afternoon recess. I had hoped that we would get through the charge this afternoon, but I think it's too late to give the case to you this afternoon, so

GOVERNMENT'S EXHIBIT 9 - FD-302, STEVE RUBIN, 10/3/73

FEDERAL BUREAU OF INVESTIGATION



Date of transcription 10/3/73

On October 2, 1973, STEVE RUBIN was interviewed at Roosevelt Raceway, Westbury, New York, by SAS JOHN L. BARRETT, Jr. and JOSEPH M. O'HARA, who identified themselves as Special Agents of the FBI.

RUBIN was advised of the purpose of the interview and he advised that he has known FORREST GERRY approximately 10 years, meeting GERRY when his parents purchased a horse from GERRY 10 years ago. He renewed his acquaintance with GERRY two years later when he worked for GERRY as a groom for approximately five months andhas seen GERRY at the track on many occasions since that time. RUBIN knows GERRY to be a horse broker at the present time since he had been banned as a driver from the track a few years ago. GERRY had been in telephonic contact with RUBIN during the early part of 1973 to discuss the sale of a horse owned by RUBIN called "Joli Timmy". GERRY advised RUBIN he was acting as a broker for JOE BONACORSA, who was the individual actually purchasing the horse, "Joli Timmy".

RUBIN advised that GERRY had been in contact with him after the sale of "Joli Timmy" but he declined to do any business with GERRY because of GERRY's recent arrest by the FBI.

RUBIN further advised he had not won any money at all on any Superfecta races nor had he cashed any winning OTB tickets for FORREST GERRY.

Interviewed on 10/2/73 at Westbury, New York File # NY 172-90

by SAS JOSEPH M. O'HARA and JOHN L. BARRETT, Jr./lfp 432 Date dictated 10/3/73

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GOVERNMENT'S EXHIBIT 10 - GRAND JURY MINUTES,
STEVE RUBIN 10/9/73

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------X

UNITED STATES OF AMERICA

-against-

JOHN DOE

----------X



Criminal Folder

No._____

GRAND JURY MINUTES

October 9, 1973

225 Cadman Plaza East
Brooklyn, New York

Presented By: HAROLD MEYERSON, ESQ.
Special Attorney,
Department of Justice

Reported By: Elizabeth A. Ng

Witness:

STEVE RUBIN

S T E V E R U B I N, after being sworn, assumed his seat as a witness and testified as follows:

EXAMINATION BY

MR. MEYERSON:

Q Would you state your name for the record, please.

A Steve Rubin.

Q Mr. Rubin, you are represented by counsel, are you not?

A Yes. I am.

Q And counsel is Irving Analich?

A Yes.

Q And you are aware that you have the right to keep silent and to have an attorney outside?

A Right.

Q Now, I would like to ask you whether you know a man by the name of Forrest Gerry?

A I decline to answer this question on the grounds of possible self-incrimination under the Fifth Amendment of the United States Constitution.

Q Would you so answer as far as any questions relating to Forrest Gerry or the Superfecta races?

A I decline to answer on the grounds of self-incrimination. I take the Fifth Amendment.

MR. MEYERSON: May I ask that this witness be excused temporarily and continued.

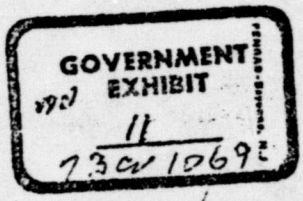
THE FOREMAN: Sir, you are still under subpoena of the Grand Jury and you are to report back here next week at 10:00 o'clock.

You are excused at this time.

(Whereupon, the witness was excused and withdrew.)

GOVERNMENT'S EXHIBIT 11 - FD-302, STEVE RUBIN, 10/15/73

FEDERAL BUREAU OF INVESTIGATION



Date of transcription 10/15/73

Mr. STEVE RUBIN, 71 Berkshire Place, Apartment 2, Hackensack, New Jersey, home phone number 201-488-0571, date of birth March 4, 1945; was interviewed at the New York Office and furnished the following information:

He is currently a trainer working at Roosevelt Raceway. He first started working at New York tracks approximately 9 years ago around 1965 when his father owned a horse called Our Gem. FORREST GERRY was the trainer of this horse and Mr. RUBIN worked as a groom with ALLEN CANTOR and FORREST GERRY. GENE GULLIVER was the second trainer at the time. FORREST GERRY was even then a heavy bettor who bet as much as $5,000 on a single race. RUBIN, for the next few years, worked part time at the track, was going to school and was a cab driver. He was trying to find himself but always kept returning to the track as it was in his blood. He got his trainers license around 1968 and was second trainer with ALLEN CANTOR at Monticello. His job was to train the horses, have them do well in races, and get rid of them through a claiming method. After several years of being with ALLEN CANTOR he quit and went with MARVIN FROMAN at Freehold and stayed with him until approximately 2 years ago. He trained horses for MARVIN FROMAN at the Lucky 7 Farm where he helped break in Hempstead Champ and others. A year and a half ago, he claimed his first horse, Fast Princess, with LUCIEN FONTAINE and sold it to a New Jersey man.

In the summer of 1972, he calimed the horse Jolly Timmy from HERVE FILLION for $12,500. His partner was RICHARD SCHWEITZER who paid for the horse and paid Mr. RUBIN a salary for training him. In February, 1973, this horse, Jolly Timmy, was sold for $3,500. RICHARD SCHWEITZER received $1,000 from FORREST GERRY which was paid to him in the city and Mr. RUBIN received $2,500 in cash from FORREST GERRY in the parking lot at Yonkers. FORREST took this money out of a large wad that he had with him and paid RUBIN. CONNIE ROGERS was there with FORREST. FORREST was driving a brown or gold Oldsmobile or Buick around a 1967 or 1968 model. FORREST said that he had

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Interviewed on 10/13/73 at New York, New York File # NY 172-90

SAS NICHOLAS D. GIANTURCO and 517

THOMAS R. FRENCH MDG/mc Date dictated 10/15/73

by

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an Australian owner that was going to stud Jolly Timmy but told RUBIN that BONACORSA would pick up the horse. BONACORSA ran into Mr. RUBIN very shortly after that at Yonkers and got the bill of sale from RUBIN. RUBIN stated that the bill of sale may have been back dated but does not remember. The bill of sale was made out for $4,000 because RUBIN stated that because he paid $12,500 for the horse he did not want FILION's people to know he sold it for less than $4,000. When BONACORSA picked up the papers and the bill of sale he told RUBIN that if anybody asks to say this is his horse. The bill of sale may have been made out to MARY BONACORSA.

The day before BONACORSA met RUBIN, and received the bill of sale, CONNIE ROGERS had called the night before and said that JOE would be in to take care of the horse and that if anybody asked, the horse was bought by BONACORSA.

Around the time when FORREST GERRY was arrested, BONACORSA ran into RUBIN at the track and BONACORSA again told RUBIN that if anyone asked him the horse was bought by BONACORSA.

RUBIN and RICHARD SCHNEITZER bought a horse by the name of Thomas Pick for $20,000 from STEVE DEMAS. RUBIN felt that he was getting a very bad deal from the various drivers that were on it, three of which were BUDDY GILMOUR, CARMINE ABBATIELLO, and NORMAN DAUPLAISE.

One day FORREST GERRY told RUBIN that he had a nice 2C4 pacer and it'd be wise to use DEL INSKO on it. FORREST said, "I'll talk to DEL and get you a fair shake." Five or six days later, DEL was on him for the first time and won. This was an Exacta race and FORREST told RUBIN he made lots of money on the horse. After the race was over, DEL told RUBIN that he had a nice horse and the next time anyone drove him to tell the driver not to use the horse so much in front. RUBIN tried to get DEL to drive him the next time out but he was not around as RUBIN thought DEL was in Chicago. LUCIEN FONTAINE drove him the next time out which was on March 3 and did 202 1/5 and won with Thomas Pick's best time ever.

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RUBIN stated that he thought FORREST was close to many drivers due to his former associations with them. RUBIN had heard he was an undesireable but that the track allowed him to go any place but the paddock and stables so that RUBIN figured FORREST was not that bad. FORREST seemed especially close to DEL INSKO whom RUBIN saw talking to FORREST one night in DML's car at Yonkers Raceway, probably around February, 1973. The car was parked in the driver's parking lot and it was about 8 o'clock at night on a race night.

RUBIN surmised that FORREST must have been pretty close to BUDDY GILMOUR because FORREST later told him that BUDDY GILMOUR told FORREST that Thomas Pick was a much better horse now than he was previously when GILMOUR was on him and that GILMOUR himself had indeed given RUBIN a good shot but the horse was not as good as it is now.

Other horses that RUBIN and SCHMEITZER own are a Putnam, and 8 year old that he bought 2 or three months ago off an Ontario owner and Bolder that he got from Indiana when he went out there with horse agent, DONALD PRUSIK.

FORREST GERRY tried to sell him a horse for several thousand dollars that FORREST got in Australia. FORREST said he was a 2:04 pacer but RUBIN after working with the horse for several days did not like him because he had a hip down so RUBIN gave him back to FORREST.

RUBIN also owns the horse Victory Park that he -- claimed from GEORGE REGAN on FORREST GERRY's advice. The horse broke the first three times he ran and had accidents during training. RUBIN was supposed to give FORREST $200 for recommending the horse but never did because of the horses poor performance. EDDY PALMIERI is now training the horse at Monticello.

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GOVERNMENT'S EXHIBIT 11 - FD-302, STEVE RUBIN, 10/15/73

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An individual by the name of ROBERT HENKE has been very close to FORREST GERRY through the years and in the past year and a half has been very close with ELDEN TURCOTTE. HENKE runs around for TURCOTTE finding out what horses have been training well and talking to grooms and other trainers.

STEVE ROMANO from Fort Lee had a horse that he got from HENKE and recently was getting "squeezed" by ROBERT CHACHKES (phonetic) and ROBERT HENKE, who wanted ROMANO to sell the horse to them but now ROMANO is with JERRY PROCINO and is doing fairly well.

FORREST always had an entourage around him. CONNIE ROGERS was always with him and JOE DONACORSA was constantly in his company especially at the cafeteria at Yonkers during the Yonkers meet. CONNIE was always writing down combinations of Superfecta on little slips of paper while she was at the table. MIKE SHERMAN was another individual who often huddled with FORREST at Roosevelt Raceway but RUBIN never saw any exchange of money or tickets. RUBIN was shown photographs of numerous individual and identified SEYMOUR ROTHSTEIN, HAROLD JITOMIR, JOSEPH FULLMAN, FRED WEINSTEIN, and HOWARD DRUSS as individuals that were constantly around FORREST. JAD EARL, MOSES HAJARIAN JULES BOBSON, IRWIN ROSEN, MURRAY CAEN, PETER VARIO, and RICHARD PERRY were other individuals who could have been with FORREST at the track but definitely are track people.

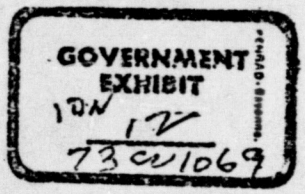
RUBIN never cashed tickets or distributed Superfecta tickets for FORREST GERRY and only bet several times for him at the track. He bet a couple of hundred dollars twice when FORREST asked him to go to the windows to get some Exactas but he never bet any Superfectas.

RUBIN never was with FORREST GERRY socially and may have been at the German Restaurant once or twice but does not remember seeing FORREST GERRY there. Other horses that FORREST GERRY probably bought even though they were under JOE DONACORSA's name were Local Pye from JERRY MICHAELS, Timber from GEORGE RAGAN, Adios Misty which TURCOTT had, and Sioux Grand Champ. Other people at the track that may have been

involved with FORREST are DANNY MARKS, a groom who is in the company of CARMINE ABBATIELLO constantly and is a very big tout and bettor, and a trainer by the name of MADEIROS may also have some of FORREST's horses. MADEIROS is very close to RUDDI TURCOTTE.

RUBIN often talked to FORREST GERRY on the phone when GERRY called him regarding horses. One time when GERRY called RUBIN at the track, GERRY wanted to be connected with JOHN MIRACELLO. After FORREST talked to RUBIN, RUBIN asked the operator to switch the call to MIRACELLO. The very next day, MIRACELLO ran into RUBIN at the race track and MIRACELLO told RUBIN not to transfer FORREST GERRY to him on the phone ever again because FORREST GERRY means trouble.

GOVERNMENT'S EXHIBIT 12 - GRAND JURY MINUTES, STEVE RUBIN, 10/15/73



UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - - - X

UNITED STATES OF AMERICA

-against-

JOHN DOE

- - - - - - - - - - - - - - - - - - X

Criminal Folder

No._____

GRAND JURY MINUTES

October 15, 1973

225 Cadman Plaza East
Brooklyn, New York

Presented By: HAROLD MEYERSON, ESQ.
Special Attorney,
Department of Justice

Reported By: Elizabeth A. Ng

Witness:

STEVE RUBIN

S T E V E R U B I N, after being sworn, assumed his seat as a witness and testified as follows:

EXAMINATION BY

MR. MEYERSON:

Q Would you state your name for the record, please.

A Steve Rubin.

Q Mr. Rubin, this Grand Jury is investigating the Superfecta races as to possible fixing of the races and the Grand Jury wants to express its appreciation of your coming down here and testifying before it.

We would like to ask you as to certain horses. Now, there was a horse by the name of Jolly Timmy,is that correct?

A Yes.

Q And at sometime this horse was purchased from you and another individual, is that correct?

A Yes.

Q Could you tell us all the circumstances surrounding that transaction?

A Well, the circumstances surrounding is the fact that the horse went bad on me and in harness racing when a horse goes bad, you have to get rid of it, you have to sell him. I happened to sell him to a party by the name

of Forrest Gerry, Jr. and money transacted. Forrest Gerry gave me money.

Q That was cash?

A He gave me cash. He gave my partner $1,000 in cash and he gave me the balance in the Yonkers parking lot which amounted to $2,500. Total purchase of the horse was $3,500 and a few days later, I gave the eligibility paper that enables you to race a horse and passed it on to Gerry. Gerry then gave the papers to Joe Bonacorsa and I'd say a couple of weeks passed and all of a sudden there was an investigation that was announced and I got a phone call from Forrest Gerry's girl friend, Connie Rogers, that I should see Joe Bonacorsa the following day.

I met Joe Bonacorsa--

Q Did Miss Rogers also state that Joe will pick up the stuff tomorrow, meaning the papers for the horse?

A Yes. I was to make him out a bill of sale.

Q And in other words you were to make all documents out to Joe Bonacorsa instead of Forrest Gerry?

A The transaction was with Forrest Gerry but the bill was to be given to Joe Bonacorsa.

Q And then did you also receive a phone call from Joe Bonacorsa?

A No. I saw Joe Bonacorsa the next day. He came over

to my stable in the barn area at Roosevelt Raceway and he drove me off and we transferred the papers. In other words, the bill of sale to him in his Cadillac car in front of the racing secretary's office at Roosevelt Raceway.

Q And did he say anything at that time that this is my horse or you were--

A He said if anybody asks you which horse for the benefit of both of us, it's my horse.

Q Did you also receive a phone call from Joe Bonacorsa at a later time approximately when Forrest Gerry was arrested?

A No. Joe Bonacorsa--

Q Didn't you receive a phone call from Joe Bonacorsa at that time that Forrest Gerry was arrested telling you that it's my horse and not Forrest's in case anything--

A Well, I had spoken to Joe but not a phone call. It was never a phone call.

Q This was a later meeting?

A I seen him on the race track, you know, and just, you know, dropping words. If you are called down or investigated, it's my horse. You say you sold the horse to me.

Q There is another horse, Thomas Pick. Did

Forrest have any dealings with you about that horse?

A Yes. He had dealings. In fact, when he was buying the other horse, when he was buying it from me, it came up in the conversation. Thomas Pick. Well, the fact of the matter was that he was not racing well. I couldn't blame my own training. The only thing I had to go by was that I wasn't getting the right shake with the drivers that I was using and he sort of knew this and he said why don't you use a good driver on your horse. Use Del Insko and I said would he drive it. He said don't worry. I'll speak to the man and he'll give you the right shake. The next race out, the horse won and he continued to drive the horse and the horse did rather well.

Q Now, was there anything else that Forrest said also that would indicate a close relationship between him and Buddy Gilmour?

A Yes. He had said well, the year before, this happened right at the break, right into the next year, you know, as the year ends, I believe it's in January or December time, I was using Buddy Gilmour almost exclusively on Thomas Pick as a driver and I wasn't winning. I was, you know, placing in the money but I thought the horse could do better and I was a little bit exasperated and sometimes you let these things out and on the race track

it gets back to the person that was driving and Forrest Gerry once intimated to me, he said, you thought this was the next year when I took Buddy off the horse, I wasn't using him any more. He said, you are not using Buddy any more and he said Buddy expressed to me, he told me that you probably thought he was giving you the business and stiffing your horse but he told me that he wasn't doing that.

Q There were also some meetings between Forrest Gerry and others in a cafeteria with Joe Bonacorsa being there, Connie Rogers being there, Joe Pullman being there. Is that true?

A Yes.

Q How often did these meetings, how often did you see all these people together in the cafeteria?

A I would say more than three times, maybe about three times a week. It wouldn't always be up there but I would say most of the week when the racing was going on.

Q And that was during the period of January, let's say through April?

A Yes.

Q And Connie Rogers would be writing out Superfecta combinations?

A Combinations. I think she would be going over them with Forrest Gerry.

Q And which cafeteria is this, at which race track?

A This was at the Yonkers Raceway. Yonkers Raceway, the cafeteria below on the ground floor. I don't know if you are aware. It happened--it was the only cafeteria that sells fairly edible food and it's downstairs as you come up through the subway.

Q This is at Roosevelt?

A This is at Yonkers and at Roosevelt they used to stand around on the second floor as you first came into the grandstands on the second floor.

Q Did you also see Robert Hencke many times with Elden Turcotte?

A Yes. I couldn't give you an exact place, but he has been with Elden Turcotte. Elden Turcotte and Hencke were, I would say better than acquaintances.

Q Would you say they saw each other often?

A Yes.

Q Now, there was also a meeting between Forrest Gerry and Del Insko at a parking lot. Could you tell us about that?

A Yes. At one time I had seen, oh, just before going

up into the stand, not into the stand but into the paddock, there's a parking lot, drivers' parking lot that overlooks the racing secretary's office in Yonkers and I was just crossing over and I happened to see Gerry in front of me wave to Insko. Insko pulled into the lot and he got into Insko's car.

Q This was a Cadillac?

A This was Insko's. It's like a greenish brownish like an olive green type of Cadillac with his, I think Illinois plates.

Q And this was right before the races at Yonkers?

A Yes.

Q I don't mean the races, I mean about 8:00 o'clock?

A Before Insko was going to go in to drive. You don't have to be there at a specified time. I think it's an hour before racing a driver can come in.

Q Regarding the transaction for the purpose of those horses, did Joe Bonacorsa ever give you any money whatsoever?

A Never.

Q In other words, Forrest Gerry paid you?

A In full.

Q And then told you to--

A Transfer the papers to Joe Bonacorsa.

Q When Forrest Gerry gave you the money, can you give us an approximate date of that transaction?

A (No response.)

Q Perhaps the month?

A I would say it was very close to the beginning of--well, it was--I would say it was late, late in February. I'd say maybe February 27th or so, right near the end of the--we were in the transaction right when Thomas was racing, when he won his first start. That was when the transaction went through, that was around the 27th.

Q This is Thomas Pick?

A Yes.

Q How about the transaction with the other horse, Jolly Timmy?

A That's when it went through. That's when the money was right about that time.

Q Did Forrest say anything to you when he gave you the money as to who the owner was at that time? Did he tell you that it was being bought for a guy from Australia?

A He mentioned when I first went into negotiations on the horse, I was supposed to receive the money at first through a bank and in other words, I gave him my

bank account or our bank account, my partner and myself bank account number and the money was going to be transferred through the bank from Australia, a supposed owner or let's say people of his, so that never happened. I waited something like a week and there was never any money that came through.

Finally, I went up to the stand and I told him look, I want the horse. You said you wanted to buy the horse. I'm now paying and I'm now taking care of the horse. Let's get this thing through and that's when I forced him to give money for the horse through Richard and then a couple of days later I met him outside in the parking lot and he gave me the rest in cash.

Q And at that time did he tell you that it was going to be in Bonacorsa's name?

A No. He told me Joe Bonacorsa would pick up the horse in the morning and Joe Bonacorsa picked up the horse and brought him into his stable that next morning.

Q So in other words, actually then as far as you were concerned, the deal from Australia had fallen through and you were actually selling it to Forrest Gerry, who was representing himself as the owner?

A As an owner and as far as I could see, I don't want to make a conjecture, but as far as I could see, Bonacorsa

was his trainer.

MR. MEYERSON: Thank you very much. No further questions.

THE FOREMAN: You are excused.

(Whereupon, the witness was excused and withdrew.)

GOVERNMENT'S EXHIBIT 13 - GRAND JURY MINUTES
RICHARD SCHWEITZER, 12/3/73

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

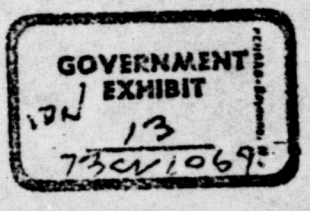
----------X

UNITED STATES OF AMERICA

-against-

JOHN DOE

----------X



Criminal Folder

#

225 Cadman Plaza East
Brooklyn, New York

December 3, 1973

GRAND JURY MINUTES

Presented by:

DENIS DILLON, ESQ.
Special Attorney
Department of Justice

Reported by:

Elizabeth A. Ng

Witness:

RICHARD SCHWEITZER

RICHARD SCHWEITZER, after being sworn, assumed his seat as a witness and testified as follows:

EXAMINATION BY

MR. DILLON:

Q Would you state your name for the record, please.

AR Richard Schweitzer.

Q Mr. Schweitzer, what is your occupation?

A Well, I'm an attorney and I also own harness race horses.

Q And you own them by yourself or you are partners with people?

A I'm partners with people.

Q And are you partners with a man named Steve Rubin in owning a few trotters?

A Well, one, he is my trainer currently and at one time he was my partner on these horses. The current horses that I have, he's a trainer for but he is not an owner of the horses.

Q And you had a share of a horse named Jolly Timmy (phonetic) at one time, is that true?

A That's true.

Q And you were partners with Leonard and

Steven Rubin in that horse, is that correct?

A That is correct.

Q Now, somewhere around February 23, 1973 that horse was sold to Forrest Gerry, is that correct?

A The horse was -- money was given to us by Mr. Gerry for the horse and the horse was taken by him. The papers which is customary were endorsed in blank and given to him and I received money from him. The original premise of the purchase of the horse was that he was buying it for a breeder in Australia and they were going to take it back down to Australia and that was the impression that I got at that time and later after about six or eight weeks ended up the horse was racing on the premises of Roosevelt Raceway, I think or Yonkers and listed with somebody else's name on there.

In other words, I want to make that clear that at the time he did come give me money, I gave him a receipt for the money, it's easier to say yes, in that sense I sold it to him. I did not fill out the bill of sale with his name on it and sign. He was given similar to a blank stock certificate, a blank endorsement of the ownership papers.

Q And he gave you $1,000, is that right?

A He gave me, I believe the total price was $3,500,

$1,000 of which I personally received from him and then the balance was paid to my partner.

Q You did have some trouble getting the balance of the $3,500 from Forrest Gerry?

A Right. After he gave me the deposit and naturally I was feeding the horse, taking care of him and I was anxious to get the balance of the money which I received at, I'll guess about a week later, within a short period of time.

Q Did Forrest Gerry ever mention that Joe Bonacorsa might have been the real owner and interest in that horse?

A No. Not that it would have made a difference to me. I really didn't care who ended up with the horse.

Q But he did mention he was buying the horse for Australia and he was going to put the horse out to stud?

A Correct. That was the original impression that I got from him what was going to happen to the horse.

Q Now, that was the only contact that you have had with Forrest Gerry, is that correct?

A That is correct. That's my sole contact with him.

MR. DILLON: Thank you very much. I appreciate your testimony.

THE FOREMAN: You are excused.

(Whereupon, the witness was excused and withdrew.)

ooo

I have sold the horse named Joli Timmy Tattoo No. 052 AG Color B HORSE / GELDING / MARE (Circle Sex) on (Date of Sale) July 12/72

To Richard A. Schweitzer St. or R.R. 130 W 58th St City & State N.Y.C. N.Y. Zip 10019

St. or R.R. City & State Zip

St. or R.R. City & State Zip

Seller(s) must sign in ink Empire Horse Farms Inc. by Eleanor Gardner RECD AUG 22 1972

(If Seller is a Registered Racing, Farm or Stable Name, the corresponding officer must sign)

9-1-72 SW

DO NOT DETACH BUT COMPLETE AND FORWARD ENTIRE CERTIFICATE TO USTA WITH FEE

2ND SALE TO BE FILLED OUT BY SELLER (Type or print new owner's full name as on Membership Card)

I have sold the horse named Joli Timmy Tattoo No. 052 AG Color B HORSE / GELDING / MARE (Circle Sex) on (Date of Sale) 10/10/72

To LEONARD Schweitzer St. or R.R. 345 East 61st City & State N.Y. N.Y. Zip 10021

Richard Schweitzer St. or R.R. 130 West 58th City & State N.Y. N.Y. Zip 10019

St. or R.R. City & State Zip

Seller(s) must sign in ink Richard Schweitzer RECD OCT 16 1972

(If Seller is a Registered Racing, Farm or Stable Name, the corresponding officer must sign)

11-3-72

DO NOT DETACH BUT COMPLETE AND FORWARD ENTIRE CERTIFICATE TO USTA WITH FEE

A-239

GOVERNMENT'S EXHIBIT 6 - TRANSFER OF OWNERSHIP OF JOLI TIMMY, FIRST AND SECOND SALE

052 AG

3RD SALE TO BE FILLED OUT BY SELLER (Type or print new owner's full name as on Membership Card)

I have sold the horse named Joli Timmy Tattoo No. 052 AG Color B HORSE GELDING MARE (Circle Sex) on (Date of Sale) 4/23/73

To MARY BOSACORSA St. or R.R. 50 Dorchester RD City & State NEW HYDE PARK NY Zip 11040

St. or R.R. ____ City & State ____ Zip ____

St. or R.R. ____ City & State ____ Zip ____

Seller(s) must sign in ink Leonard Schwartz Richard Schwartz ENTER APR 20 1973

(If Seller is a Registered Racing, Farm or Stable Name, the corresponding officer must sign)

DO NOT DETACH BUT COMPLETE AND FORWARD ENTIRE CERTIFICATE TO USTA WITH FEE

5-4-73 $115

GOVERNMENT EXHIBIT PW 7 Evd 13cv1069

A-240

GOVERNMENT'S EXHIBIT 7 - TRANSFER OF OWNERSHIP OF JOLI TIMMY, THIRD SALE

GOVERNMENT'S EXHIBIT 8 - MISCELLANEOUS TRANSFERS
OF OWNERSHIP OF JOLI TIMMY

D ... WILLERS SIGN IN INK?

JOLI TIMMY

See Autostatic HR for material

852AG

Assigned

Star.

GOVERNMENT EXHIBIT
8 Evd
73Cr1069

JOLI TIMMY

57 Rule (a)

B H foaled April 25, 1967
Sire: Torpid 93161
Dam: Ivette Hanover (45) by Solicitor 80581
2nd Dam: Ilka Hanover (35) by Billy Direct 73233

Bred by Sherwood Farms Inc., Irvington, N.J.; foaled the property of Walter M. Hurst, Bareville, Pa.; passed to Waco Stables, Alexandria, Va. ½ Joli-Jo Stable, Wilkes-Barre, Pa., on 9/15/67

1 March 1968

DO NOT ... mc

A-241

JAN 2 1972
U. S. T. A.
COLUMBUS, OHIO

GOVERNMENT'S EXHIBIT 8 - MISCELLANEOUS TRANSFERS OF OWNERSHIP OF JOLI TIMMY

TO BE FILLED OUT BY SELLER (Type or print new owner's full name as on Membership Card)

old the horse named Joli Timmy Tattoo No. 052 AG Color B HORSE GELDING MARE (Circle Sex) on (Date of Sale) 5/3/68

200 STABLES St. or R.R. P.O. Box 9117 City & State ALEXANDRIA VA Zip 22304

MAN R. RATH EQUITY St. or R.R. 1414 RHODE AVE City & State MERRICK N.Y. Zip 11566

St. or R.R. City & State Zip

must sign in ink Jos. J. Stables, Jr. Joseph Stables, Jr. by Wes Stables

(If Seller is a Registered Racing, Farm or Stable Name, the corresponding officer must sign)

DO NOT DETACH BUT COMPLETE AND FORWARD ENTIRE CERTIFICATE TO USTA WITH FEE

(2) Mail to: Walter Warrington, Source 2 Stables

SALE TO BE FILLED OUT BY SELLER (Type or print new owner's full name as on Membership Card)

old the horse named Joli Timmy Tattoo No. 052 AJ Color B HORSE GELDING MARE (Circle Sex) on (Date of Sale) 12/18/69

loyd I. Carlisle St. or R.R. R.D. #5 City & State Elkton, Maryland Zip 21921

St. or R.R. City & State ENT'D JAN 2 1970 Zip

St. or R.R. City & State Zip

must sign in ink Wes Stables by Edward Peters

(If Seller is a Registered Racing, Farm or Stable Name, the corresponding officer must sign)

DO NOT DETACH BUT COMPLETE AND FORWARD ENTIRE CERTIFICATE TO USTA WITH FEE

(2) to 1-5-70 MLA

SALE TO BE FILLED OUT BY SELLER (Type or print new owner's full name as on Membership Card)

ve sold the horse named Joli Timmy Tattoo No. 052 AG Color HORSE GELDING MARE (Circle Sex) on (Date of Sale) June 10, 1970

apital Hill Farms Reg'd St. or R.R. 5165 Sherbrooke City & State Montreal Que Can Zip

St. or R.R. West Wing City & State ENT'D JUL 1 1970 Zip

St. or R.R. Room 310 City & State Zip

er(s) must sign in ink Floyd D. Carlisle

(If Seller is a Registered Racing, Farm or Stable Name, the corresponding officer must sign)

DO NOT DETACH BUT COMPLETE AND FORWARD ENTIRE CERTIFICATE TO USTA WITH FEE

(2) to

SALE TO BE FILLED OUT BY SELLER (Type or print new owner's full name as on Membership Card)

ENT'D JAN 25 1972

sold the horse named Joli Timmy Tattoo No. 052 AG Color B HORSE GELDING MARE (Circle Sex) on (Date of Sale)

apital Hill Farms Inc. St. or R.R. 5165 Sherbrooke City & State Montreal Que Can Zip

St. or R.R. Room 310 City & State Zip

St. or R.R. City & State Zip

(s) must sign in ink Capital Hill Farms Reg'd Floyd Carlisle

(If Seller is a Registered Racing, Farm or Stable Name, the corresponding officer must sign)

DO NOT DETACH BUT COMPLETE AND FORWARD ENTIRE CERTIFICATE TO USTA WITH FEE

2 to

DEFENDANT'S EXHIBIT
for ID
1-30-069

"Bill of Sale"

Sold to Mary Bonacorsa on Feb 16th 1973 said horse Joli Timmy 6 year old Bay: By Torpid: For the sum of $4000. Four Thousand Dollars

Richard Schweitzer

DEFENDANT'S EXHIBIT C - AFFIDAVIT OF NICHOLAS C. COSTELLANO IN SUPPORT OF MOTION FOR MISTRIAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

JOSEPH BONACORSA,

Defendant.

AFFIDAVIT IN SUPPORT OF MOTION FOR MISTRIAL

NICHOLAS L. CASTELLANO, an attorney duly licensed to practice in the courts of the State of New York and the United States District Court for the Eastern District of New York affirms:

That this affirmation is submitted in support of a motion for the withdrawal of a juror and the declaration of a mistrial in the above entitled proceeding.

FACTS

On November 20, 1974 the Foreman of the jury presently deliberating at the conclusion of the trial in the above matter requested the Court's permission to take a copy of the indictment which forms the basis of the charges against the defendant into the jury room to consider during the course of its deliberations. The Court inadvertantly gave the jury a copy of an indictment lodged against the defendant which was superceded by the indictment in this case. Approximately 4 hours after the jury was

given the incorrect indictment, the Court, realizing its mistake, summoned the jury and provided them with a copy of the correct indictment. The Court explained to the jury that it was the Court's error in providing them with the incorrect indictment, and further indicated that an indictment is merely an accusation and the pre-existing indictment should not in any way effect their deliberations or the verdict in the instant case.

ARGUMENT

Based upon the 4-hour hiatus which existed between the time the jury was given the previous indictment and the time it was told by the Court that said indictment was not the proper indictment, it is reasonable to assume that each and every juror has read and studied the pre-existing indictment. It's a fundamental principle of law that a jury is only entitled to consider during the course of its deliberations legal evidence presented during the course of the trial. It is equally fundamental that if the pre-existing indictment were offered during the course of the trial, it would be inadmissable.

Although it is clear that the effect the reading of the previous indictment has had upon the jury can only be the subject of speculation and surmise since no one is privy to the

to the workings of the minds of each individual juror, certain conclusions can reasonably be assumed from the incident that occurred.

a) It is clear that the jury is aware of the fact that the defendant on two occasions was indicted by the grand jury.

b) It can be assumed that a reasonable juror would conclude that the superceded indictment in some way improved upon the pre-existing indictment.

c) Since there appears to be some question as to when the grand jury returned both the pre-existing indictment and the instant indictment and the dates of the defendant's testimony before the grand jury, this jury may speculate as to what occurred during the defendant's second appearance before the grand jury and may conclude that, despite the fact that he was indicted, he once again committed perjury. A lay jury, of necessity, would not be aware of the fact that the defendant had no knowledge of the pre-existing indictment.

DEFENDANT'S EXHIBIT C - AFFIDAVIT OF NICHOLAS C. COSTELLANO IN SUPPORT OF MOTION FOR MISTRIAL

d) A lay jury would also reasonably conclude that the Government's case was stronger by reason of the fact that 2 indictments were returned against the defendant.

e) The jury may further conclude that this case was of special importance to the grand jury and the Government in that it required unusual attention resulting in two indictments.

The defendant has the constitutional right to a fair trial based upon the evidence. This jury for four hours has deliberated on the question of the guilt of the defendant based upon an indictment which is not properly related to the proceedings. Based upon the aforestated, the defendant makes application for the withdrawal of a juror and the declaration of a mistrial.

Your affirmant affirms the aforesaid under penalty of perjury.

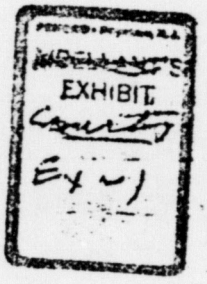
Affirmed this 21st day
of November, 1974.

NICHOLAS L. CASTELLANO
100 East Old Country Road
Mineola, N. Y. 11501
(516) 741-8383

Attorney for Defendant
Joseph Bonacorsa

COURT EXHIBIT 1 - JURY'S NOTE REQUESTING EXHIBITS

JURY REQUESTS.

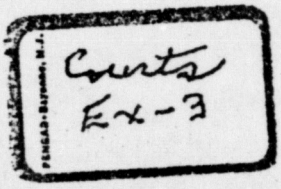


① COPY OF INDICTMENT

② BILL OF SALE

③ REGISTRATION OF JOLLY TIMMY

COURT EXHIBIT 3 - JURY'S NOTE REQUESTING INSTRUCTION



THE JURY WOULD LIKE TO KNOW WHETHER "COUNT ONE" STARTS WITH THE QUESTIONS ON WHETHER THE DEFENDANT HAD ANY BUSINESS RELATIONSHIPS WITH FORREST GERRY OR WHETHER IT STRICTLY DEALS WITH THE QUESTIONS & ANSWERS IN COUNT ONE.

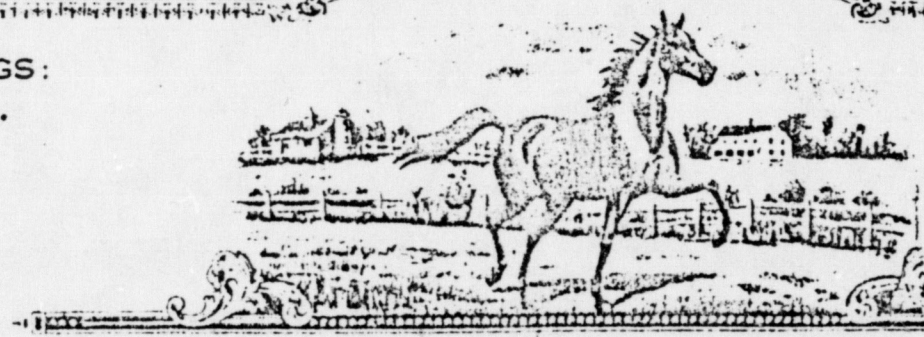
Dick Cirina

MARKINGS:
Star.

Assigned
TATTOO NO.
052 AG

1/26/69

STANDARDBRED



THE UNITED STATES TROTTING ASSOCIATION

CERTIFICATE OF REGISTRATION

THIS IS TO CERTIFY THAT JOLI TIMMY HAS BEEN DULY REGISTERED

IN VOLUME 57 Rule (a) OF THE UNITED STATES TROTTING ASSOCIATION REGISTER.

B H foaled April 25, 1967
Sire: Torpid 93161
Dam: Ivette Hanover (45) by Solicitor 80581
2nd Dam: Ilka Hanover (35) by Billy Direct 73233

Bred by Sherwood Farms Inc., Irvington, N.J.; foaled the property of Walter M. Hurst, Bareville, Pa.; passed to Waco Stables, Alexandria, Va. & Joli-Jo Stable, Wilkes-Barre, Pa., ~~on 9/15/67~~ (over)

GIVEN UNDER MY HAND AT COLUMBUS, OHIO, THIS 1 DAY OF March A. D. 1968

SEE REVERSE SIDE FOR TRANSFER

Ken McCarr
Registrar

A-249

OWNERSHIP REGISTRATION OF JOLI TIMMY

The United States Trotting Association

750 MICHIGAN AVENUE, COLUMBUS, OHIO 43215

224-2291 Area Code 614

TRANSFER PROCEDURE

The last name on the face of this Certificate was the owner of this animal when issued.

To transfer the within described horse, fill in the BOTTOM endorsement on the **REVERSE** side of this certificate. Do not detach but send the entire certificate to the United States Trotting Association with the transfer fee.

The transfer of ownership will then be made on this certificate by the United States Trotting Association.

TRANSFER RECORD

The last name entered hereunder is the present owner of the animal as shown on the records of the United States Trotting Association Register.

DO NOT WRITE ON THIS CERTIFICATE

A-249a

The ownership of the animal on the front of this certificate has passed

To Waco Stables, ~~Alexandria, Va.~~ & Norman R. Roth, ~~Merrick, N.Y.~~

Ken McCarr Registrar

Date of Sale 5/3/68 Date Mailed 5/14/68 Typed by mo

To Floyd I. Carlisle ~~Elkton, Maryland~~

Ken McCarr Registrar

Date of Sale 12/18/69 Date Mailed 1/5/70 Typed by mla

To Capital Hill Farms Reg'd ~~Montreal, Quebec, Canada~~

Ken McCarr Registrar

Date of Sale 6/10/70 Date Mailed 7/28/70 Typed by mla

To Capital Hill Farms, Inc. ~~Montreal, Que., Canada~~

Robert Luekrman Registrar

Date of Sale 1-1-72 Date Mailed 1-28-72 Typed by mac

To Richard Allen Schweitzer ~~New York, New York~~

Robert Luekrman Registrar

Date of Sale 7-12-72 Date Mailed 9-1-72 Typed by scw

To Leonard Schweitzer, ~~N.Y., N.Y.~~ Richard Alan Schweitzer, ~~N.Y.~~

Robert Luekrman Registrar

Date of Sale 10/10/72 Date Mailed 11/13/72 Typed by bao

To Mary Bonacorsa ~~New Hyde Park, N.Y.~~

Robert Luekrman Regi

Date of Sale 4/23/73 Date Mailed 5/4/73 Typed by mp

To Matthew John Lentsch ~~South Bend, Ind.~~

Robert Luekrman Registrar

Date of Sale 9/22/73 Date Mailed 10/12/73 Typed by mp

TRANSFER INFORMATION

The **SELLER** must fill in the BOTTOM endorsement on the reverse side, printing the buyer's name(s) and address(es), then SIGN in ink. The new owner(s) must send the entire certificate with the transfer fee to USTA.

IMPORTANT: Failure to forward the Registration Certificate within 20 days after purchase of an animal which is racing will subject the buyer to a fine not to exceed $100. After being sold, a horse may not start in a race unless the new owner is a member.

FEES FOR TRANSFER

(This schedule applies to the length of time between the date of sale and the date the application for transfer is received.)

WITHIN ONE MONTH	$ 2.00
ONE TO THREE MONTHS	5.00
THREE TO SIX MONTHS	10.00
SIX MONTHS TO ONE YEAR	25.00
ONE TO TWO YEARS	50.00
OVER TWO YEARS	100.00

MOTION FOR JUDGMENT OF ACQUITTAL OR A NEW TRIAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

NOTICE OF MOTION

-against-

73 CR 1069

JOSEPH BONACORSA,

Defendant.

S I R S:

PLEASE TAKE NOTICE, that upon the annexed affirmation of STEPHAN H. PESKIN, the exhibits attached thereto, and all papers and proceedings heretofore had herein, the undersigned will move this Court before the Honorable THOMAS C. PLATT, on the 7th day of February, 1975, at 10:00 A.M. or as soon thereafter as counsel can be heard, for a plenary hearing and an order setting aside the verdict of guilty herein and directing a judgment of acquittal, or, in the alternative, granting defendant a new trial, for the following reasons:

1. The verdict is not supported by substantial evidence.

2. The verdict is contrary to the weight of the evidence.

3. The Court erred in denying defendant's motion for acquittal made at the conclusion of the evidence.

4. The Court erred in denying defendant's motion for inspection of the Grand Jury minutes and dismissal of the indictment.

MOTION FOR JUDGMENT OF ACQUITTAL OR A NEW TRIAL

5. Count I of the indictment is fatally defective in that:

(a) It erroneously charges that defendant "wilfully" (rather than "knowingly") made false statements in violation of 18 U.S.C. §1623;

(b) The specifications of perjury are vague, indefinite, ambiguous and repetitious.

(c) Defendant was never asked during his Grand Jury appearance to describe what role, if any, Forrest Gerry, Jr. played in the purchase of the horse Jolly Timmy, and specifically, whether Forrest Gerry, Jr. did in fact deliver any cash to the sellers of Jolly Timmy when said horse was purchased.

6. Count ~~II~~ III of the indictment is fatally defective in that it fails to state with specificity the facts constituting the offense charged.

7. Defendant was not fully advised of his constitutional rights when he appeared before the Grand Jury, and was given no indication, prior to his final Grand Jury appearance on December 19, 1973, that he had already been indicted or was about to be indicted.

8. The indictment was unjustifiably based upon hearsay evidence in that a deposition was presented to the Grand Jury at a time when the defendant was available to testify in person.

9. Defendant was never informed during his appearances before the Grand Jury of the recantation provision of 18 U.S.C. § 1623.

10. The Special Grand Jury which returned the indictment against the defendant had been so tainted by prosecutorial misconduct as to render its actions a nullity.

11. The Government failed to disclose exculpatory evidence in its possession upon request by defendant in a pretrial motion, and falsely stated that no such evidence existed.

12. Defendant was denied the right to be tried upon a Grand Jury indictment in that there was material variance between the proof offered at trial and the obstruction of justice counts of the indictment.

13. Defendant was substantially prejudiced and deprived of a fair trial as a result of excessive participation of the trial judge during the examination of MARTIN LENTSCH and MATHEW LENTSCH.

14. The Court erred in striking the testimony of MARTIN LENTSCH and MATHEW LENTSCH.

15. The Court erred in unduly restricting the testimony of MATHEW LENTSCH concerning the full circumstances surrounding the sale of the horse Jolly Timmy and dominion and control of the horse following the sale.

16. The Court erred in excluding all evidence concerning ownership of the horse Jolly Timmy which related to events occurring after defendant's appearance before the Grand Jury.

17. The Court erred in its instruction to the Jury concerning the limited purpose for which they could consider the testimony of MATHEW LENTSCH.

18. The Court erred in permitting the prosecutor to impeach STEVEN RUBIN who was the prosecution's own witness.

19. The Court erred in permitting the prosecutor to ask leading questions of STEVEN RUBIN, which, in effect, resulted in the prosecutor himself testifying as to what he told RUBIN that caused RUBIN to recant his former statements to F.B.I. Agents and cooperate with the Government.

20. The COurt erred in permitting the hearsay testimony of STEVEN RUBIN concerning statements allegedly made to him by Forrest Gerry, Jr. which tended to establish that Gerry was the actual owner of the horse Jolly Timmy.

21. The Court erred in prohibiting defense counsel from asking RICHARD SCHWEITZER whether it was his impression at the time of the sale that the horse Jolly Timmy was bought by Forrest Gerry, Jr. to the exclusion of the defendant.

22. Defendant was substantially prejudiced by the denial of defense counsel's request for additional time to study the prior statements of STEVEN RUBIN before commencing cross-examination of this key prosecution witness.

23. Defendant was substantially prejudiced and deprived of a fair trial as a result of numerous instances of misconduct of the prosecuting attorney, including:

a) An inaccurate and highly prejudicial summary of the charges contained in the indictment during the prosecution opening statement;

(b) Repeated, groundless interruption of the

defense opening statement, including a remark that defense counsel was "deliberately misrepresenting;"

(c) A wholly improper, inflammatory and extremely prejudicial summation which included erroneous statements of law, misstatements of the record and constant references, in spite of repeated defense objection and Court admonition, to "lies" and other alleged crimes not charged in the indictment.

24. The Court erred when it charged the jury that the mental element under the perjury statute (18 U.S.C.§1623) is false testimony "wilfully" made, and otherwise gave confusing instructions on the mental element of this crime.

25. The Court erred when it failed to charge that the entire jury must unanimously agree on a particular specification of perjury in order to find the defendant guilty of Count I.

26. The Court erred when it charged the jury that they may consider additional allegedly false statements of the defendant, not charged in the indictment, in determining whether defendant possessed the mental element necessary to establish perjury.

27. The Court erred when it failed to charge that STEVEN RUBIN was an accomplice in the obstruction of justice alleged in Counts II and III and his testimony should therefore be scrutinized most carefully.

28. The Court erred when it failed to instruct the jury regarding ownership of personal property and the indicia thereof.

29. The Court erred in excluding from evidence the complete registration record of the horse Jolly Timmy, which error was extremely prejudicial in light of the Jury's specific request

for the registration during its deliberation.

30. The Court erred in ordering that only the direct testimony of Steven Rubin be read to the jury when the Jury's note requested "the testimony of Steven Rubin" and did not specify only the direct testimony.

31. Defendant was substantially prejudiced by the fact that the Jury was given copies of both the original indictment and the superceding indictment during its deliberations.

32. The Court failed to respond to the jury's request for supplemental instructions regarding Count I of the indictment.

33. The Court erred when it denied each of the defense motions for a mistrial.

DATED: New York, New York
January 30, 1975

Yours, etc.,

ROTHBLATT, ROTHBLATT, SEIJAS
& PESKIN
Attorneys for Defendant
232 West End Avenue
New York, New York 10023
(212) 787-7001

TO: Hon. DAVID G. TRAGER
United States Attorney
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

MOTION FOR JUDGMENT OF ACQUITTAL OR A NEW TRIAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

AFFIRMATION

73 CR 1069

JOSEPH BONACORSA,

Defendant.

STEPHAN H. PESKIN, an attorney duly admitted to practice before the Courts of the State of New York and the United States District Court for the Eastern District of New York affirms under penalty of perjury:

I am a member of the firm of ROTHBLATT, ROTHBLATT, SEIJAS & PESKIN, attorneys for the defendant herein, and am fully familiar with the facts and circumstances in connection herewith.

With the few exceptions noted below, the trial record serves as the basis for the several grounds set forth in support of the instant motion.

The annexed affidavit of the defendant is submitted in support of paragraph "7" of the Notice of Motion which deals with the Government's failure to fully advise defendant of his Fifth and Sixth Amendment rights prior to his testifying before the Grand Jury. A plenary hearing is necessary to resolve the further issue of precisely when the Grand Jury voted the bill of indictment against Mr. Bonacorsa.

Paragraphs "10"and "11" of the Notice of Motion concern prosecutorial misconduct occurring out of the presence of the Court.

MOTION FOR JUDGMENT OF ACQUITTAL OR A NEW TRIAL

Upon information and belief, several witnesses testified at the main Superfecta trial (United States v. Vario, et al., 73 CR 1068) concerning coaching of witnesses and other improper conduct during sessions of the Special Grand Jury investigating harness racing which returned the instant indictment against the defendant. These witnesses included Mr. Joseph Pullman, and Mr. Seymour Rothstein. In addition, certain tape recordings of conversations which took place in April, 1974 between the United States Attorneys and potential Government witnesses (including Pullman and Rothstein) are further evidence of improper conduct during the harness racing investigation and prosecutions. Only through a plenary hearing can the full extent of this misconduct be ascertained.

The prosecutorial misconduct concerning the Goverment's failure to reveal Brady material involves certain conversations between Forrest Gerry, Jr. and David Kraft secretly recorded by the Government at Kraft's office in Farmingdale, New Jersey during August, 1973. During these conversations Gerry made statements which completely refute the Government's contention that he was the actual owner of horses registered in the defendant's name. Relevant excerpts from the Government's transcript of these tape recordings are annexed hereto.

Also annexed hereto are affidavits of Nicholas L. Castellano, Esq., Michael C. Pollina, Esq., and Muriel Labbate, which establish that the Government denied the existence of any exculpatory material in its response to defendant's pretrial discovery motion.

MOTION FOR JUDGMENT OF ACQUITTAL OR A NEW TRIAL

WHEREFORE, I respectfully request that a plenary hearing be held and the guilty verdict be set aside and the indictment dismissed, or a judgment of acquittal be entered, or, in the alternative, the guilty verdict be set aside and a new trial ordered,

DATED: NEW YORK, NEW YORK
January 30, 1975

STEPHAN H. PESKIN

MOTION FOR JUDGMENT OF ACQUITTAL OR A NEW TRIAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

AFFIDAVIT

-against-

73 CR 1069

JOSEPH BONACORSA,

Defendant.

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

JOSEPH BONACORSA, being duly sworn, deposes and says:

I am the defendant herein and respectfully submit this affidavit in support of my motion to set aside the guilty verdict.

During the year 1973 I appeared before the Special Grand Jury investigating Harness Racing on three separate dates. My final appearance was on Wednesday, December 19, 1973. Two days prior, on Monday, December 17, 1973, I voluntarily appeared at the United States Attorney's Office and gave a deposition.

I was never informed by the Government, prior to giving testimony on any of the above occasions, that I was personally the subject of an investigation or that anything I said could be used against me in a criminal prosecution.

Quite the contrary, at the time of my final appearance before the Grand Jury on December 19, 1973 I was assured that I was not a target of the investigation and had nothing to worry about. On that occasion I did not even bother to have my attorney accompany me to the Grand Jury as I had previously done.

MOTION FOR JUDGMENT OF ACQUITTAL OR A NEW TRIAL

I was shocked on December 20, 1973 when I was arrested in Monticello, N.Y. and informed that I had been indicted the previous day. During the trip back to New York City, I specifically recall Agent Nicholas Gianturco apologizing for having previously lied to me when he had said everything was "all right."

Joseph Bonacorsa
JOSEPH BONACORSA

Sworn to before me this
30 day of January, 1975.

STEPHAN H. PESKIN
Notary Public, State of New York
No. 31-3337460
Qualified in New York County
Commission Expires March 30, 19[illegible]

Excerpts of Government transcript of conversation between FORREST GERRY, JR. (FG) and DAVID KRAFT (DK) recorded on or about August 29, 1973 at the office of DAVID KRAFT in Farmingdale, New Jersey.

Pages 27-28:

DK Who, Bonacorsa?

FG Bonacorsa. Yeah.

DK With me?

FG Yeah

DK Don't even know the guy

FG Well, that's what I'm saying so I ain't worried about whatever Bonacorsa does

* * * * *

FG There's nothing that, nothing that he could say in my estimation to hurt me of anything that I done, there's no way that he could hurt me. All right, so what else, what was this about, ah

Pages 44-46:

DK You got horses in Bonacorsa's, ah, Bonacorsa's barn

FG There's no horses, let me tell you, Bonacorsa claimed four or five horses and it was my idea that he claim them. But it was for this guy in Chicago, this guy that I used to have horses for in Chicago....and he was seeing how much better horses they was here for the price than they are in Chicago, so he said I'd like to claim some horses here and take them back to Chicago with me. And I said well the only way you can is, you got to claim them, they got to stay here for 30 days and race 'em then ship 'em back. So Bonacorse was there and he made a deal with Bonacorsa. Bonacorsa claimed him "Jet Butler" and four or five other horses for him, him putting up the money, Bonacorsa racing 'em here for a month or so and then ship 'em to Chicago to there was, went in testified

Excerpts (cont'd)

	and then called Bonacorsa and where was he getting the money to buy these horses and they had an idea that these horses he was getting was mine
DK	inaudible
FG	Yeah, but they was not my horses....other than I did talk with his kid and talked with Bonacorsa and I'd say well "Jet Butler"'s a good claim or this horse is a good claim
DK	"Jet Butler" was
FG	Yeah, but I mean horses like that one, every horse that he claimed was a good claim but they hadn't wasn't for me I wouldn't have no horses for Joe Bonacorsa or, uh
DK	inaudible
FG	That's what I'm saying, Jesus Christ of all people in the world, if I was going to have a horse it would be with somebody who could do something, not Bonacorsa. I mean I like Joe, I talk with him I mean as far as a horse goes
DK	Sure
FG	He's the worst, the world's worst

* * * * * *

FG	Well, maybe part of that..inaudible..he wanted them horses run...They put two and two together and tried to say it was me, cause they have guys going in an testifying that it was me
DK	I couldn't, I couldn't...
FG	Claiming it was me, but it isn't
DK	Oh, it is, it is! I don't know...
FG	But it isn't the truth, they wasn't my horses. I'm sure if I was going to have any horses that they wouldn't be...

MOTION FOR JUDGMENT OF ACQUITTAL OR A NEW TRIAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

JOSEPH BONACORSA,

Defendant.

AFFIDAVIT

73 CR 1069

STATE OF NEW YORK)
COUNTY OF NASSAU) ss.:

NICHOLAS L. CASTELLANO, being duly sworn, deposes and says:

I am an attorney duly licensed to practice in the Courts of the State of New York and the United Stated District Court for the Eastern District of New York.

I represented the defendant,JOSEPH BONACORSA, in this proceeding as trial counsel.

Prior to trial an omnibus motion dated March 5, 1974 was filed on behalf of the defendant requesting various forms of relief. Included therein was a specific request, under the authority of Brady v. Maryland, 378 U.S. 83 (1963), for discovery and inspection of all matter in the possession of the Government favorable to the defendant.

The Government replied to this motion orally on or about March 7, 1974 during a telephone conversation between Assistant United States Attorney Harold Meyerson and my associate, Michael Pollina, Esq. In response to two separate requests, Mr. Meyerson stated that there was no exculpatory or "Brady" material.

Notes taken during the above telephone conversation were transcribed into two pages of typewritten material entitled "THE GOVERNMENT'S BILL OF PARTICULARS- Per telephone call of Harold Meyerson"a copy of which is annexed hereto. Items numbered 16 and 21 represent the negative response to the request for exculpatory material.

The Government never amended or supplemented its reply to the defense request for Brady material during the period I represented Mr. Bonacorsa.

Subsequent to March 7, 1974, during the trial of another case at which Mr. Bonacorsa was not a defendant, I first learned that the Government possessed certain "consent" tape recordings which were clearly exculpatory to Joseph Bonacorsa.

Nicholas L. Castellano
NICHOLAS L. CASTELLANO

Sworn to before me this
30th day of January, 1975.

Beverly Yuill

BEVERLY YUILL
NOTARY PUBLIC, State of New York
No. [illegible]
Qualified in Nassau County
Commission Expires March 30, 1976

MOTION FOR JUDGMENT OF ACQUITTAL OR A NEW TRIAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

JOSEPH BONACORSA,

Defendant.

AFFIDAVIT

73 CR 1069

STATE OF NEW YORK)
COUNTY OF NASSAU) ss:

MICHAEL C. POLLINA, being duly sworn, deposes and says:

I am an attorney duly admitted to practice in the Courts of the State of New York and am associated with the firm of CASTELLANO & CASTELLANO.

On or about March 7, 1974 I had a telephone conversation with Assistant United States Attorney Harold Meyerson during which he responded to defendant's omnibus pre-trial motion in the above captioned case dated March 5, 1974.

Mr. Meyerson at that time indicated to me that the secretarial staff of his office was very busy and that he was having difficulty getting the reply to the aforementioned motion

typed. He suggested that he orally give me the reply. I asked him at that time to dictate his reply to my secretary, Muriel Labbate, and had him speak directly to her.

Mr. Meyerson dictated the reply to my secretary, and the same was typed by her on March 7, 1974. A copy of that reply is annexed hereto and bears the date March 7, 1974 on the second page.

Michael C. Pollina

MICHAEL C. POLLINA

Sworn to before me this
29th day of January, 1975.

Beverly Yuill

BEVERLY YUILL
NOTARY PUBLIC, State of New York
No. 03-9/81921
Qualified in Nassau County
Commission Expires March 28, 19 76

MOTION FOR JUDGMENT OF ACQUITTAL OR A NEW TRIAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

JOSEPH BONACORSA,

Defendant.

AFFIDAVIT

73 CR 1069

STATE OF NEW YORK)
COUNTY OF NASSAU) ss:

Muriel Labbate, being duly sworn, deposes and says:

That I am a secretary employed by the law offices of Castellano & Castellano at 100 Old Country Road, Mineola, New York and was so employed on March 7, 1974.

That on that day I was asked by Mr. Pollina to take dictation via the telephone from a United States Attorney who identified himself as Mr. Meyerson.

That same day I typed the information which was entitled "The Government's Bill of Particulars" and gave same to Mr. Pollina. Annexed hereto is a copy of the "Government's Bill of Particulars" consisting of two pages which I typed on that day.

Muriel Labbate

MURIEL LABBATE

Sworn to before me this
29th day of January, 1975.

Beverly Yuill

BEVERLY YUILL
NOTARY PUBLIC, State of New York
No. 30-0781951
Qualified in Nassau County
Commission Expires March 30, 19[illegible]

MOTION FOR JUDGMENT OF ACQUITTAL OR A NEW TRIAL

THE GOVERNMENT'S BILL OF PARTICULARS - Per telephone call of Harold Meyerson

1. No telephone calls

2. Nothing taken from the defendant

3. Any statements by defendant you have

4. No. Have no electronic tapes, recordings, etc. by the defendant. Anything that pertains to this case has already been given to you from the Title 3 things.

5. No

6. No, no documents.

7. No

8. No

9. No

10. to 13. Application for Title 3 involves other case. No. In reality you already have it. (Progress reports.)

14. No photos, etc., showing scenes, places or meetings.

15. No, no photographs or pictures.

16. No exculpatory material; Lentsch is your witness.

17. No information from electronic surveillance that H.M. knows about.

18. Prosecution witnesses have no recordings.

19. No

20. H.M. first declined to answer; then said no.

21. No Brady material.

Bill of Particulars:

Any horses really owned by Forrest Gerry - lie

Everything pertaining to Forrest Gerry being the owner - lie

Disposition: "Is everything that you said truth and accurate?" "yes, sir." - lie

3/7/74
The Government's Bill of Particulars - Per Harold Meyerson

Disposition (Cont'd.)

Sticking to statement - lie

Grand Jury Exhibit - lie

Steve Rubin Bill of Sale; dealing with him directly - lie

"How did you pay him?" "Cash." - lie

"How many times did you deal with him?" - lie

Concerning Forrest Gerry:

No business dealings - lie

Never bought or sold horses, etc. - lie

Did we have any prior inconsistent statements made by the defendant? - You have all statements - H.M.

Bonacorsa told Steve Rubin to say that the horses were Bonacorsa's not Forrest Gerry's.

Precise date Steven Rubin was witness - October 9 and 15.

Same Grand Jury as indicted Bonacorsa.

Rubin not charged with perjury.

Precise time and place that he corruptly endeavored to do it - On or about last week of February and on or about September sometime.

Shortly after or about time Forrest Gerry was arrested at Roosevelt Raceway.

MEMORANDUM AND OTHER DENYING MOTION IN PART AND GRANTING EVIDENTIARY HEARING

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- -x

UNITED STATES OF AMERICA

-against-

JOSEPH BONACORSA,

Defendant.

- -x

73 CR 1069

MEMORANDUM AND ORDER

May 6, 1975

PLATT, D.J.

Defendant moves pursuant to Rule 29(c) of the Federal Rules of Criminal Procedure for judgment of acquittal, or, in the alternative pursuant to Rule 33 of such Rules, for a new trial on some 33 seperately stated grounds, plus certain additional sub-grounds.

Defendant's principal arguments appear to be contained in his 11 point memorandum of law and these will be discussed herein.

I

Defendant's first contention is that the indictment is fatally defective because of an alleged ambiguity in and excessive repetition of the questions asked of the defendant and the failure of the government to ask a single question which focused directly on the matter in issue.

FPI—SS—3-17-72—30M—9153

a. Ambiguity. Defendant complains that the words "dealt", "deal", "deals" and "dealings" are ambiguous and cannot be used in connection with the prosecution and conviction for the crime of perjury.

It is true, as defendant argues, that such words carry some 18 different definitions in the American College Dictionary, Random House, 1969 Edition, but only the 4th - "to trade or do business" - fits the context in which the defendant and the prosecutor use the word in their questions and answers. There is nothing ambiguous about the question "You dealt with him [Steve Ruben] directly?" when used in this sense. The context in which the words were used in each instance clearly indicated that the parties understood that the word would be used in the dictionary sense thereof.

b. Repetitious questioning. The defendant on the one hand claims that he was not given an adequate opportunity to explain whatever his relationship with Forrest Gerry, Jr. was and at the same time defendant argues in effect that he was repeatedly asked the same type of question. The Court does not see the logic to all of this and a re-reading of the indictment shows that the defendant was given an adequate opportunity to state what, if any, role Mr. Gerry played in the transaction in question but chose not to reveal the same.

c. Question on the matter in issue. In this case the key questions were who paid for and who was the actual owner of the horse Jolly Timmy. By its verdict on counts 1 and 3 of the indictment the jury obviously found that

Mr. Gerry paid for the horse and was the true owner thereof, that the horse was placed in the defendant's wife's name as a nominee pursuant to a "business deal" of some sort between defendant and Mr. Gerry and the defendant advised Mr. Ruben "If anybody asked, the horse belonged to him [the defendant]; he bought the horse." (Tr. 138). The questions were clearly designed to elicit the facts with respect to these issues.

For the foregoing reasons defendant's first point is without merit.

II

Defendant argues that the government failed to prove beyond a reasonable doubt that Mr. Gerry was the actual owner of the horse Jolly Timmy asserting that proof thereof "was virtually non-existent". The uncontradicted proof showed, however, and the jury apparently found that Mr. Gerry negotiated the purchase of the horse Jolly Timmy from Messrs. Fletcher and Ruben and personally paid them $3500 in two cash installments for the horse. The proof further showed and the jury apparently found that Mr. Bonacorsa told Mr. Ruben if anyone asked he [the defendant] was the owner of the horse and that he bought the horse. Such admonition, of course, would not have been necessary had the defendant actually purchased the horse. Under the circumstances, the uncontradicted proof established this fact also to the jury's satisfaction.

III

The defendant contends that count 3 of the indictment should be dismissed because of lack of specificity and material variance between the offense charged and the proof at the trial.

a. Lack of specificity. If the indictment was not specific enough to apprise the defendant of the nature of the charge against him, he should have sought relief with respect thereto prior to the trial. See Rule 7(c)(1) and Rule 7(f) of the Federal Rules of Criminal Procedure.

b. Material variance. Defendant argues that because the proof only showed that Mr. Ruben was advised by Mr. Bonacorsa that he should tell anyone who asked that it was the defendant's horse in September of 1973 as charged in count 3 of the indictment and not also in February of 1973 as charged in count 2 of the indictment, there was a variance of such magnitude as to vitiate the verdict.

The fact is, however, that the defendant and his lawyer did not even appreciate this alleged insufficiency of proof with respect to count 2 of the indictment until after the jury had returned its verdict. The jury itself fully comprehended the evidence in the case and returned a correct verdict of "not guilty" with respect to count 2 of the indictment because of a failure of proof as to such count and at the same time returned a verdict of guilty with respect to count 3 of the indictment pertaining to the statements which were made in September of 1973. If the jury's verdict had been otherwise, defendant might well have been in a position to complain. However, as the verdict now stands,

it is fully supported by the evidence produced at the trial.

For the foregoing reasons there is no basis for defendant's third claim.

IV

Defendant maintains that the indictment and all evidence presented at the December 19, 1973 session of the grand jury was obtained in violation of defendant's Fifth and Sixth Amendment rights in that prior to his appearance on such date he was a "virtual" or "putative" defendant and was not fully advised of his constitutional rights. The government maintains that there is no requirement of any such warning in this Circuit in a perjury case and at the same time asserts that defendant was given a full warning of his constitutional rights before his first appearance before the grand jury on June 11, 1973 and again before he was examined by the United States Attorney at a deposition on December 17, 1973.

In view of the fact that the defendant was also indicted and convicted for obstruction of justice (count 3 of the indictment) it would appear to be necessary to hold an evidentiary hearing to determine whether the warnings alleged to have been given by the government were in fact given. If they were, then it would also appear that this objection of the defendant might also not be well taken.

V

Defendant argues that the prosecutor's failure to disclose material exculpatory evidence deprived defendant of a fair trial. The basis for defendant's argument in this respect is that in August, 1973, the government recorded a conversation between Forrest Gerry, Jr. and David Kraft in which Mr. Gerry made several statements clearly establishing that Mr. Gerry was not the hidden owner of any of the defendant's horses. Thereafter in a pre-trial discovery motion dated March 5, 1974, defendant requested all exculpatory material in possession of the government pursuant to Brady v. Maryland, 378 U.S. 83 (1963) and the government responded verbally on the same date that there was no Brady material which, according to the defendant, was untrue in the light of such recorded statement. The defendant says that he was prejudiced by this failure to disclose because had he been aware of the same he would not have requested and obtained adjournments of his trial until after the so-called Superfecta trial in which Mr. Gerry was found guilty. Thereafter defendant maintains Mr. Gerry's value as a defense witness was virtually destroyed.

Defendant argues further that if he had had this recording (which his counsel received during the so-called Superfecta trial) prior to the latter trial, he would have gone along with the government's motion to have his trial tried first and called an unconvicted Mr. Gerry as his witness.

The difficulty with defendant's argument is that there was nothing to prevent him or his counsel at his trial from moving the Court to prohibit any questions directed to Mr. Gerry with respect to his convictions in view of this sequence of events. Moreover, since both of Mr. Gerry's convictions were on appeal questions with respect to the same might well have been excludable on that ground also. (It might be noted that Mr. Gerry testified in his own defense in a previous trial conducted by this judge for obstruction of justice, 74 CR 64, and the Court prohibited questions regarding his conviction in the main Superfecta trial, 73 CR 1068, since that conviction was on appeal. Mr. Castellano, who was Mr. Bonacorsa's attorney in this trial, was a co-defendant's attorney in Mr. Gerry's trial and was well aware of the Court's decision on this question.)

Mr. Gerry was available during the course of the trial and defendant could have raised all these questions with the Court at that time. He did not and the belated effort now to have the indictment dismissed on this ground is not tenable.

VI

Defendant next complains about alleged false and misleading statements of the prosecutor during his opening to the jury in that he improperly summarized the defendant's testimony before the grand jury. This argument is also not well taken. The indictment had theretofore been read to the jury; it was read to the jury in the charge of the Court and the jury took a copy of the indictment with it during its deliberations. The jury was cautioned that the prosecutor's statements were not evidence and the jury clearly evaluated the evidence and the indictment.

VII

The defendant contends further that three questions of the prosecutor on redirect examination of the government witness were leading questions and so prejudicial to the defendant as to require a new trial. There is no question but that the subject matter of the questioning was proper for redirect examination. Under the circumstances, the Court does not feel that the allegedly objectionable questions on redirect examination (where the rule with respect to leading questions is not as strictly observed) were not prejudicial to the defendant herein.

VIII

Defendant next complains of the Court's participation in the examination of the defense witnesses, the striking of part of their testimony and the exclusion of the complete registration record of the horse Jolly Timmy. The Court's position with respect to its rulings on these questions is fully set forth in the trial record and the jury was fully instructed with respect to any questions put to any witnesses by the Court.

IX

Defendant complains further with respect to the prosecutor's summation. However, the jury was cautioned and instructed that the statements of counsel were not evidence. The summation statements complained of were arguments from facts in evidence and were not such as to require a new trial.

X

The defendant argues that because the jury was mistakenly given a copy of an original indictment filed December 19, 1973 which contained only a portion of the testimony of the defendant which the government claimed was perjurious, rather than the superseding indictment filed February 25, 1974 which contained all of such testimony, this mistake was prejudicial to the defendant. The most

significant thing about this inadvertent error was that the jury was so alert and cognizant of all of the facts in the case that they realized that they did not have in their possession the complete text of the indictment which had been read to them and sent a note to the Court requesting clarification as to this point. Moments before receipt of such note the Court had discovered its inadvertent error. The jury was fully instructed with respect to the error and, if anything, the mistake was prejudicial to the government's case and not the defendant's case.

XI

Finally the defendant complains because the Court did not answer the aforesaid note requesting clarification with respect to the indictment which had inadvertently been given to them. As soon as the new and correct indictment was handed to the jury they needed no answer to their note, asked for none and they were able to proceed with their deliberations and reach a verdict.

* * *

The other contentions advanced by the defendant in his motion papers have been considered and are disposed of in the Court's denial of defendant's motion except to the extent that an evidentiary hearing is required with respect

to the alleged violation of the defendant's constitutional rights in one or more of his appearances before the grand jury as indicated above.

Accordingly, except to the extent so indicated, defendant's motions are denied and an evidentiary hearing will be held on the aforesaid question on May 30, 1975 at 2PM.

SO ORDERED.

William C. Conner

U.S.D.J.

AFFIRMATION OF MICHAEL C. POLLINA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
----------X

UNITED STATES OF AMERICA

-against-

JOSEPH BONACORSA,

Defendant.

----------X

AFFIRMATION

73 CR 1069

MICHAEL C. POLLINA, an attorney duly admitted to practice before the Courts of the State of New York, affirms under penalty of perjury:

I am associated with the firm of COSTELLANO & COSTELLANO, former attorneys for JOSEPH BONACORSA, the defendant herein.

I personally appeared with Mr. Bonacorsa at the United States Courthouse, Brooklyn, New York, on December 17, 1973 when he was deposed by Special U.S. Attorney Harold Meyerson concerning the harness racing investigation.

I have no recollection of any warnings concerning constitutional rights being given to Mr. Bonacorsa at the time of the deposition other than what appears at pages three and four of the transcript of the deposition.

Prior to the taking of the deposition I was not informed that Mr. Bonacorsa was a specific target of the investigation or that the Government intended to seek an indictment against him for any crime. Quite the contrary, Mr. Meyerson had given me the impression, both prior and subsequent to the December 17th deposition, that Mr.

Bonacorsa would not be indicted.

I have a scheduled court appearance in the County Court, Suffolk County, New York [People v. Zapperese] on June 6, 1975 and am therefore unable to appear in this Court as a witness on that date. If my testimony as to the above facts is necessary in the proceeding, I will certainly make myself available at a subsequent date.

Dated: June 5, 1975

MICHAEL C. POLLINA

SUPPLEMENTAL MEMORANDUM AND ORDER DENYING MOTION

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA

73 CR 1069

-against-

SUPPLEMENTAL MEMORANDUM AND ORDER

JOSEPH BONACORSA,

June 25, 1975

Defendant.

----------x

PLATT, D.J.

Pursuant to this Court's Order dated May 6, 1975 (see Memorandum and Order of said date), an evidentiary hearing was held to determine whether the defendant was fully advised of his constitutional rights before his December 17-19, 1973 appearance before the Grand Jury.

The following facts were stipulated.

"At all times relevant to the investigation in the indictment Mr. Meyerson was a Special Attorney in Brooklyn Strike Force, Organized Crime Section investigating with Mr. Dillon. There was a joint investigation; United States vs. John Doe, complaint No. 731774, which resulted in the indictment of U.S. Vario et al, 73 CR 1068.

"In connection with that investigation, Mr. Bonacorsa appeared for the first time before the Grand Jury and this would at all times be the special May 1972 Grand Jury. He appeared the first time June 11, 1973 and was represented by counsel. The Government would introduce the Grand Jury testimony which has already been marked Government Exhibit 1 in Evidence in the trial of this case.

"Mr. Bonacorsa appeared pursuant to a subpoena, and, *** his counsel -- he had counsel there, was not in the Grand Jury with him *** any rights that were given are reflected in the minutes of the Grand Jury testimony.

* * *

"Then going to September 14, 1973, which was the Friday, there was a special session of the May '72 Grand Jury called. Before any testimony was taken before the Grand Jury there, Mr. Meyerson called the approximately 20 subpoenaed witnesses, all of whom were harness drivers, and in an empty Grand Jury room without a reporter, without the Grand Jury and no minutes being taken, advised them of certain of their rights under Miranda vs. Arizona, but Mr. Meyerson, because he questioned approximately 20 men that day cannot state with definite certainty that he gave each and every right under Miranda vs. Arizona.

* * *

[Discussion between counsel whether witnesses would agree that Mr. Meyerson told the drivers that anything they said might be held against them in a court of law]

"*** Mr. Meyerson told them, words to the effect, that they were potentially targets of the investigation, but also told them that the Government wished their cooperation and indicated that at least certain things would not be done if they cooperated and gave true testimony.

* * *

"***[O]n December 13, 1973, Mr. Meyerson had decided to indict Mr. Bonacorsa *** for perjury and obstruction of justice, and Mr. Dillon had approved that decision, and that was also forwarded to Washington for their approval. ***

* * *

"***[O]n December 17, 1973, a Monday, this was a regular day of the special May 1973 Grand Jury. However, quorum did not appear. Mr. Bonacorsa was represented by different counsel at this point, consented through his attorney to be deposed and his deposition was taken December 17, 1973 by the regular Grand Jury reporter that day, and the deposition is Government's Exhibit 4 in Evidence.

* * *

"***December 19, 1973, in chronological order, Mr. Bonacorsa appeared pursuant to the same subpoena before the May 1972 Grand Jury, which was there at a special session, this being a Wednesday, was given his rights as reflected in Government's Exhibit 5 in evidence; that after his Grand Jury appearance, Mr. Meyerson presented his case to the Grand Jury and they subsequently voted to indict Mr. Bonacorsa in 73 CR 1069, and later that day the indictment was handed up to a miscellaneous judge that day.

* * *

"***[T]he defendant was not advised of the fact that the decision to indict him had been made and approved on December 13; that he was not advised of that at any time.

* * *

"***[T]he defendant was not aware that he was to be indicted until he in fact was indicted and was arrested the day after the indictment was filed.***"

No part of defendant's Grand Jury testimony of June 11, 1973 was included in the indictment.

As indicated above, the parties were prepared to stipulate the fact that on September 14, 1973, Mr. Meyerson gave Miranda warnings to the drivers and leave open only the fact that he was not absolutely certain that he had given the warning that anything they said might be held against them in a court of law.

In order to clarify this point, the Government, at the Court's request, called Special Attorney Harold Meyerson as a witness.

Mr. Meyerson testified that some 30 harness drivers appeared as witnesses in the morning and afternoon of September 14, 1973 and he personally addressed both groups. He said that the defendant Bonacorsa was there with his attorney, Ms. Caplan, at one of the sessions. He further testified that he advised all of them that they were potential targets of the investigation and that he was certain that he had given those present at both the morning and afternoon session Miranda warnings. His only uncertainty (which seemed to arise because he did not give complete warnings to the defendant in his actual Grand Jury appearance on December 17/19, 1973) was as to whether he might have inadvertently omitted a part of the Miranda warnings on September 14. However, one of the main reasons he said for calling the meeting was to give the warnings and he was fully conversant with the warnings himself having been a Special Attorney for six months and Judge Zavatt's law clerk prior to that.

The defendant called his former attorney, Ms. Caplan, who confirmed that Mr. Meyerson had warned all of the drivers, including her client, that they were potential targets but denied that he had given any Miranda warnings whatsoever. This was surprising because even the defendant was prepared at the outset to concede and stipulate that Mr. Meyerson gave some but possibly not all of the Miranda warnings.

Ms. Caplan, however, was concededly not a criminal lawyer having spent almost all of her professional career in commercial law and may well not have appreciated the significance of all that Mr. Meyerson said particularly since she seems to have been "flabbergasted" by his remarks that the investigation was the biggest scandal in the racing and/or sports world. This claim by Mr. Meyerson appears to have unnerved her somewhat and may well have diverted her thinking from all else that may have been said.

In any event, under the circumstances the Court has no reason to doubt Mr. Meyerson's statements that the warnings were in fact given and it finds that they were. In addition, of course, the defendant was represented by counsel of his own choice on each appearance.

This leaves only the question of whether the Government properly called the defendant back before the Grand Jury on December 17th and 19th after it had decided to ask for an indictment against him for perjury without warning the defendant that he was a target.

Defendant concedes, however, that he was warned that he was a potential target on September 14, 1973. In addition, Mr. Meyerson said that on numerous occasions, including he believes on December 14th, after he decided to make the recommendation to the Department of Justice, he told defendant's then attorney that he had serious doubts about the defendant's and Mr. Lentsch's veracity. (Mr. Lentsch was a

principal witness for the defendant both before the Grand Jury and at the trial).

Moreover, apparently in response to one of such statements, defendant's attorney furnished the Government with an affidavit from Mr. Lentsch and a statement from the defendant (Exhibit A) some time in November of 1973. Defendant must have well known that he was a target; otherwise there would have been no need for such exculpatory material.

Thus on the facts, defendant's motion must be denied. In addition, the law also appears to support the Government's position.

In this Circuit there is no need to give Miranda warnings to a witness who while being questioned with respect to other crimes (here the so-called Superfecta case), perjures himself and is thereafter indicted for perjury. United States v. Corallo, 413 F.2d 1306, 1330 (2d Cir. 1969). Nor is there any need to warn the witness that he is a perjury target even when the Government has all the evidence marshalled for the case against him. United States v. Sweig, 441 F.2d 114 (2d Cir. 1971).

Under all the circumstances defendant's motion must be denied and he is directed to appear for sentencing on June 27, 1975 at 10:00 a.m..

One final word with respect to point 7 (page 8) of the Court's original Memorandum and Order dated May 6, 1975,-

in the second line of the third sentence the word "not" should be eliminated since it clearly is an erroneous typographical insert.

SO ORDERED.

Thomas C. Platt

U.S.D.J.

ORDER AMENDING SUPPLEMENTAL MEMORANDUM AND ORDER

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- -x

UNITED STATES OF AMERICA

-against-

JOSEPH BONACORSA,

Defendant.

- -x

73 CR 1069

ORDER AMENDING SUPPLEMENTAL MEMORANDUM AND ORDER DATED JUNE 25, 1975

July 3, 1975

PLATT, D.J.

Supplemental Memorandum and Order dated June 25, 1975 is hereby amended so as to delete the words "The following facts were stipulated" appearing after the first paragraph and substituting in place thereof the following:

> "At the outset of the hearing, the attorneys indicated that they were prepared to stipulate to the following facts and did so stipulate except as to the matter contained in the second full paragraph of page 2 hereof:"

SO ORDERED.

Thomas C. Platt

U.S.D.J.

JUDGMENT

United States District Court for

United States of America vs. (1)

EASTE DISTRICT OF NEW YORK

DEFENDANT

JOSEPH BONACORSA

DOCKET NO. 74 CR 134

JUDGMENT AND PROBATION/COMMITMENT ORDER

U. S. DISTRICT COURT E.D. N.Y.

MONTH 7 DAY 3 YEAR 1975

JUL 3 1975

TIME A.M. P.M.

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date

[ ] WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

[XXX] WITH COUNSEL John Rothblatt, Esq.

(Name of counsel)

PLEA

[ ] GUILTY, and the court being satisfied that there is a factual basis for the plea, [ ] NOLO CONTENDERE, [ ] NOT GUILTY

M'FILMED

FINDING & JUDGMENT

There being a finding/verdict of [ ] NOT GUILTY. Defendant is discharged [ ] GUILTY.

Defendant has been convicted as charged of the offense(s) of violating T-18, U.S.C. Sec. 1623, in that on or about Sept. 14 and Dec. 19, 1973, the defendant corruptly did endeavor to influence, obstruct and impede the due administration of justice in the U.S. District Court, Eastern District of N.Y., by corruptly endeavoring to influence, obstruct and impede a witness, who knew material facts and was expected to testify to them and be called as a witness and was so called as a witness before the Special May 1972 Grand Jury in said Court into possible violations of the sports bribery law, 18 U.S.C. Sec. 224, to give material false testimony before said body in relation to the aforesaid violation.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of 2 years on count 1 pursuant to T-18, U.S.C. Sec. 3651, on condition that the defendant be confined in a jail-type institution for a period of 4 months the execution of the remainder of the sentence of imprisonment is hereby suspended and the defendant is placed on probation for a period of 3 years and the defendant shall pay a fine to the U.S. in the sum of $1,000.

IT IS ADJUDGED on Count 3 that pursuant to T-18, U.S.C. Sec. 3651, the defendant is herby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of 2 years on condition that the defendant be confined in a jail-type institution for a period of 4 months to run concurrently with count 1; the execution of the remainder of sentence of imprisonment is hereby suspended and the defendant is placed on probation for a period of 3 years to run concurrently with count 1 and the defendant shall pay a fine to the U.S. in the sum of $1000.00 such fine to be paid in addition to the fine imposed under Count 1. Execution of sentence of imprisonment and payment of fines stayed pending appeal.

SPECIAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

CONDITIONS OF PROBATION

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

NOTICE OF APPEAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

JOSEPH BONACORSA,

Defendant.

Docket Number 73 CR 1069
74 CR 134

Hon. Thomas C. Platt
(District Court Judge)

NOTICE OF APPEAL

Notice is hereby given that JOSEPH BONACORSA appeals to the United States Court of Appeals for the Second Circuit from the X Judgment ☐ order ☐ other (specify) _____ entered in this action on July 3, 1975.
(Date)

ROTHBLATT, ROTHBLATT, SEIJAS & PESKIN
(Counsel for Appellant)

Address 232 West End Avenue
New York, N.Y. 10023

Date July 7, 1975

To: Hon. DAVID G. TRAGER
United States Attorney
Eastern District of New York

Phone Number (212) 787-7001

ADD ADDITIONAL PAGE IF NECESSARY

(TO BE COMPLETED BY ATTORNEY) TRANSCRIPT INFORMATION – FORM B

➤ QUESTIONNAIRE

☐ I am ordering a transcript
☐ I am not ordering a transcript
Reason:
☐ Daily copy is available
☐ U.S. Attorney has placed order
☐ Other. Attach explanation

➤ TRANSCRIPT ORDER

➤ DESCRIPTION OF PROCEEDINGS FOR WHICH TRANSCRIPT IS REQUIRED (INCLUDE DATE).

Prepare transcript of
☐ Pre-trial proceedings
☐ Trial
☐ Sentence July 3, 1975
☐ Post-trial proceedings

The ATTORNEY certifies that he will make satisfactory arrangements with the court reporter for payment of the cost of the transcript. (FRAP 10(b)) ➤ Method of payment ☐ Funds ☐ CJA Form 21

ATTORNEY'S signature [signature] DATE July 7, 1975

➤ COURT REPORTER ACKNOWLEDGEMENT

To be completed by Court Reporter and forwarded to Court of Appeals.

Date order received	Estimated completion date	Estimated number of pages.

Date _____ Signature _____
(Court Reporter)

COPY A-292 NDANT

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

ROBERT LA GRASSA, being duly sworn, deposes and says that deponent is not a party to the action, is over 18 years of age and resides at 62-20 60' RD MASPETH, N.Y.

That on the 12 day of SEPTEMBER, 1975, deponent personally served the within APPENDIX

upon the attorneys designated below who represent the indicated parties in this action and at the addresses below stated which are those that have been designated by said attorneys for that purpose.

~~By leaving _____ true copies of same with a duly authorized person at their designated office.~~

By depositing 1 true copy of same enclosed in a postpaid properly addressed wrapper, in the post office or official depository under the exclusive care and custody of the United Stated post office department within the State of New York.

Names af attorneys served, together with the names of the clients represented and the attorneys' designated addresses.

SHIRLEY BACCUS-LOBEL
c/o THEODORE GILINSKY
P.O. Box 899
BEN FRANKLIN STATION
WASHINGTON, D.C. 20044

Roberta LaGrassa

Sworn to before me this
12 day of September, 1975

Michael DeSantis

MICHAEL DeSANTIS
Notary Public, State of New York
No. 03-0930908
Qualified in Bronx County
Commission Expires March 30, 1977